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CITY

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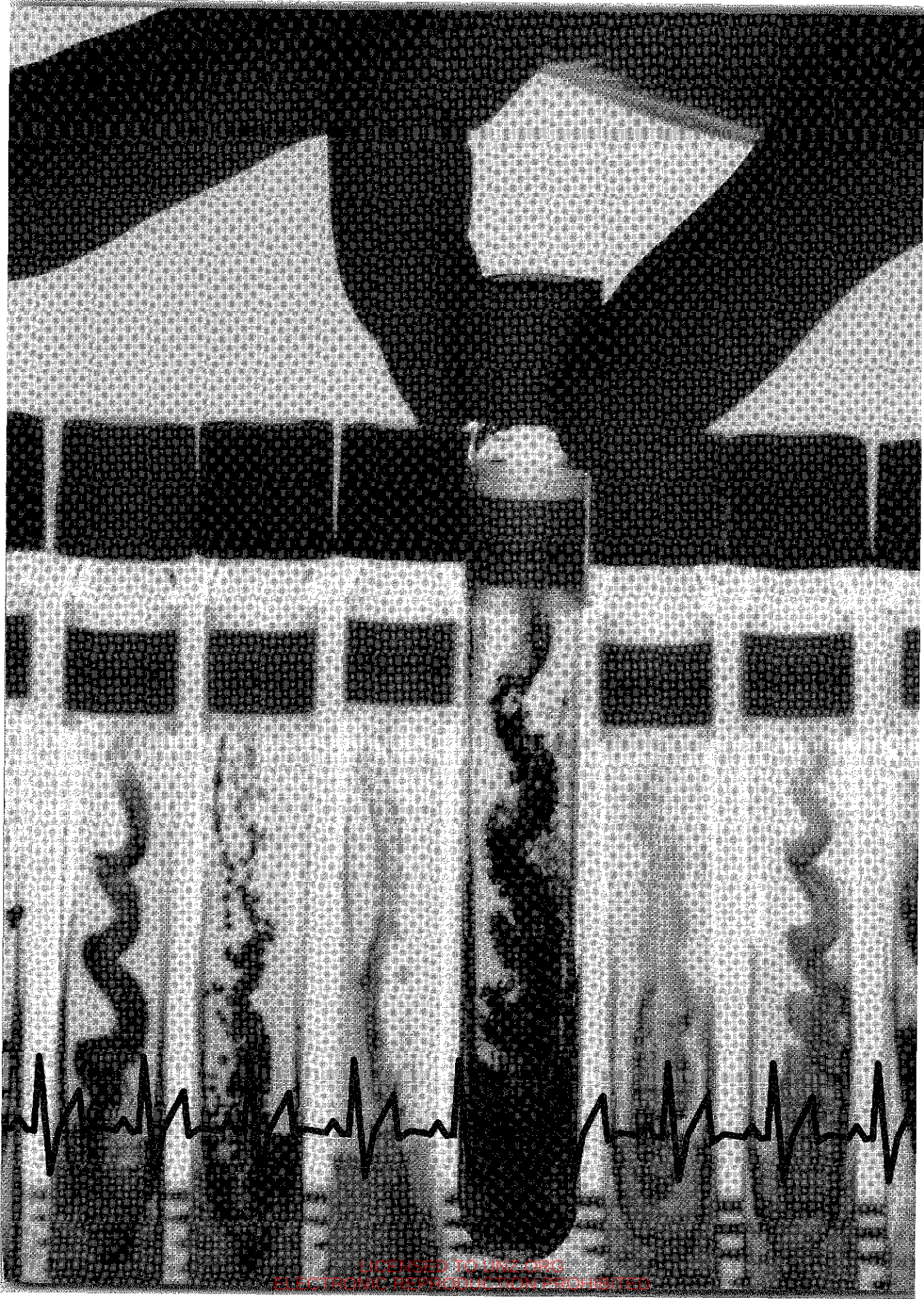
Albany's Toxic Taxes
Rob Norton

Punishment and Personhood
Clarence Thomas

The Teen Mommy Track
Kay S. Hymowitz

Tough on the Homeless
Heather Mac Donald

Theodore Dalrymple's Column:
"The Knife Went In"



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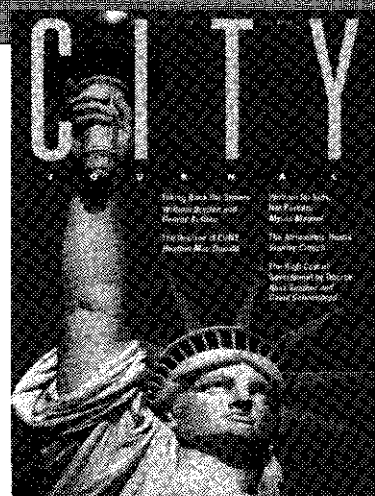
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An amazing coincidence, I thought, as I read Vincent Scully's analysis of an obscure Renaissance painting in his absorbing critique of urban modernism on page 75. For years I've had a print of that picture hanging over my desk. Showing a walled Italian city bustling with cosmopolitan activity—from merchants and bankers doing business, to a lecturer addressing an audience, to construction workers building, to girls dancing in the square—it is a representation of the urban ideal, setting forth what makes cities special today no less than six-and-a-half centuries ago, when Ambrogio Lorenzetti first laid out his then-unfaded colors on the Siena city hall wall.

City Journal articles typically focus on urban problems, exploring their origins and their solutions. But it's also important to make explicit that behind the criticism lies just such a passionately held positive ideal of what a city is all about. The ideal is simply this: cities are hothouses of humanity, cultivating human potential to its fullest development of excellence and variety.

That's because cities, at their best, are arenas of opportunity and ambition and achievement. Their sophisticated economies allow individuals to fulfill their talents as anything from artists or attorneys to zoning consultants or zookeepers. The collaboration and competition that spring from large concentrations of people push skills to the greatest possible refinement, fostering the best singing, neurosurgery, or dealmaking of which mankind is capable. And because of the opportunities they generate, cities endlessly renew



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themselves by drawing in the talented, energetic young from everywhere else.

They draw in a revivifying stream of people and from the world's far-off places, to which they are linked by an international web of trade, represented in Lorenzetti's painting by the merchants coming and going with their pack animals. That connectedness makes cities temperamentally hospitable to newcomers, even foreigners, willing to let them put their energies and abilities to use.

Above all, cities are realms of freedom—freedom from the narrow constraints of rural and small-town life; freedom to invent and dramatize yourself, to choose your friends, to direct your life, to better yourself, to enjoy privacy and anonymity, to think new and dangerous thoughts—which is what makes cities engines of invention and progress. Cities offer freedom, too, from the merely utilitarian facts of life: because of their wealth, they allow people to create a world that embodies the highest aspirations of what human life can be, in art and culture, in splendid buildings, in public works, in the work of art that is the city itself.

Lorenzetti's painting, which takes up a whole wall in Siena's city hall, is

titled *The Effects of Good Government*. On another wall is its companion, *The Effects of Bad Government*, in which justice is dethroned, violence and murder reign in the streets, people cower in their homes, buildings decay, nothing good flourishes. It's an important message for those who inhabit city halls and other seats of authority. Cities are man-made constructs; and the character of the man-made order that prevails shapes the kind of life individuals can live there. People concentrated so closely together can produce discord and squalor no less than harmony and splendor.

That order-shaping government operates in many ways. It molds the character of citizens and their collective life through the administration of justice, as Clarence Thomas's article (page 41) explains; through the maintenance of public order, as Heather Mac Donald shows (page 30); through the administration of institutions like the foster care system, discussed by Rita Kramer on page 63; through the way taxation fosters or blights business activity and job creation, as Rob Norton analyzes on page 10; even through the ways the reigning culture encourages people to think about their lives, as Kay Hymowitz outlines on page 19 or Theodore Dalrymple discusses on page 92, in the first of what will be a regular column in *City Journal*. Informing all these stories, and all that *City Journal* does, is a vision of urban life as it might be shaped, a life in which all citizens participate in the humane community that the Italian painter envisioned three centuries before New York was born.

Soundings

for next year's campaign are already under way. —Heather Mac Donald

Selling Welfare

New York City doesn't have enough people on welfare. Such anyway seems the premise behind a \$400,000 city and federally funded advertising campaign this summer that aimed to persuade up to a million city dwellers to apply for food stamps. Focus groups, organized by the Human Resources Administration's ad agency, had revealed that most people were too proud to apply. "We think that's a big problem," says Judy Soehren, acting director of HRA's Office of Food Programs and Policy Coordination. The campaign's goal, according to Soehren: to make people "feel better" about using food stamps.

HRA sees itself as combating not just quaint notions of self-reliance but ignorance as well. "Just because you own your own home and live in a nice community doesn't mean you're ineligible," Soehren explains. Her favorite ad shows scenes from four different neighborhoods—a housing project, an apartment house, a brownstone, and a duplex co-op—with the slogan "Hunger knows no boundaries." Taxpayers are also paying for research on attitudes toward food stamps.

HRA promotes the programs as a way to bring federal funds into New York. But will encouraging welfare dependency save the city money in the long run? HRA seems

6

Big Brother HUD

This summer, the federal Department of Housing and Urban Development launched an investigation of Gramercy Park residents Dominick Crispino, Arlene Harrison, and Jack Taylor. All three were threatened with \$50,000 fines; Crispino was ordered to hand over his diary and a list of all his associates. Their alleged crime: speaking out against a proposed homeless residence in their neighborhood.

In Berkeley, California, HUD similarly threatened three local activists with fines and jail terms unless they turned over the minutes of all meetings of their neighborhood coalition, the coalition's membership lists, and everything they had ever written about the homeless housing project they were opposing. Again, the only offense they allegedly committed was speaking out about an issue of local concern.

For several years, HUD has zealously pursued such claims against community groups, filed by homeless advocates under the Fair Housing Act Amendments of 1988 (FHAA). The advocates charge that organized opposition to homeless shelters, drug treatment centers, and residences for the mentally ill violates the rights of the disabled, a class that the FHAA defines to include recovering addicts, alcoholics, the mentally ill, and AIDS patients—in other words, most of the homeless population.

In investigating FHAA complaints, HUD routinely demands that neighborhood groups turn over their membership lists, files, and everything they have ever written about the contested facility. HUD has also used the threat of government-funded litigation to pressure citizens into accepting outrageous settlements. The agency has asked people to sign away their right to speak and to determine when and with whom they will meet.

Now, in response to a public outcry, HUD has issued a set of investigative guidelines intended to avoid flagrant violations of the First Amendment. But the new rules are too little, too late—suggesting that HUD's reign of terror against neighborhood activists who dissent from its housing orthodoxy may not be over yet.

The new guidelines prohibit the investigation of "public activities that are directed toward achieving action by a governmental entity or official," including distributing pamphlets, holding "open community or neighborhood meetings," testifying at public hearings, and communicating directly with officials about "official governmental matters." If an FHAA complaint alleges only such activities, HUD will reject it immediately. Nor may the agency broker settlements that require people to forfeit their free speech rights.

But some of these new protections have a hair-splitting quality that raises questions about the agency's intentions. Why, for instance, are only "open" community meetings protected? What if the officers of a

neighborhood group held a private planning session? Why are only organization membership lists, fund-raising information, and financial data off limits to the agency's subpoena power? Why not correspondence and files as well?

Most troubling is the largest exception in HUD's new rules. HUD will continue to investigate groups or individuals who take their protests to court. This loophole eviscerates citizens' last line of defense against local governments that, captured by the social service industry and homeless advocates, are increasingly violating their own zoning rules regarding the siting of group homes for alcoholics, addicts, and the mentally ill.

For example, Seattle until recently prohibited the placement of social service facilities within a quarter-mile of each other. Yet in 1992, the city approved the construction of five group homes for addicts and the mentally ill within a single block. A local neighborhood group sued. HUD has been investigating the group for the past year, and nothing in the new guidelines prevents it from continuing.

As local governments, often under pressure from HUD, embrace the philosophy of placing dysfunctional individuals into stable, middle-class communities, such violations of zoning rules will only become more common. By holding open the threat of federal retaliation for challenging such zoning infractions in court, HUD is encouraging municipalities to break their own laws.

HUD's new guidelines carve out another exception that is nearly as worrisome. The rules protect only speech directed at public officials. Should citizens carry their protests beyond government agencies, they

still risk HUD's heavy-handed retaliation. The Gramercy Park residents had allegedly tried to outbid a non-profit developer for a property the developer aimed to turn into housing for the homeless mentally ill. Though the developer recently dropped his legal complaint against the neighbors, the theory that market competition may violate the FHAA remains alive under HUD's new rules.

Finally, HUD will continue to investigate individuals and organizations that protest housing decisions if "the facts available to the department do not reasonably indicate the precise applicability of the First Amendment." In other words, if an advocacy group writes a muddy enough complaint about a neighborhood organization, it can continue to draw down the government's vast coercive power until the "precise applicability of the First Amendment" is established. HUD's assurance that it will "carefully tailor" such investigations so as not to "unduly chill the exercise of free speech" is ludicrous: the very existence of such investigations, no matter how "tailored," can scare citizens into silence.

Under the new rules, HUD has dismissed only 11 of its 34 pending investigations against individuals and community groups. If President Clinton takes the First Amendment seriously, he should order Secretary Henry Cisneros to close all loopholes in the guidelines and declare that all neighborhood political activity is safe from government penalty. —Heather Mac Donald

Disorder in the Courts

Common sense is all too uncommon in America's courtrooms when cities' efforts to combat public disorder

are at issue. The evidence: three decisions handed down within a three-week period in August. In California, Municipal Judge John Salazar struck down as unconstitutional a Santa Cruz ordinance against lying down on the sidewalk. On the other coast, Manhattan Criminal Court Judge Sheryl Parker ruled that three-card monte, the reigning street hustle, is a "game of skill" that cannot be regulated under the state's gambling laws. And New York State Supreme Court Justice William Davis held that the Constitution bars a Transit Authority rule against drinking alcohol on the subway.

Taken alone, each case may seem trivial; but the cumulative effect of scores of similar decisions is seriously damaging for cities. When city governments allow civil order to unravel, citizens are left feeling powerless and cynical.

One response has been an increasing public willingness to consider draconian measures against disorderly conduct. In California, a state assemblyman introduced a bill that would allow judges to sentence graffiti vandals to ten whacks with a hardwood paddle in open court. The bill came astonishingly close to passage, winning a majority on one committee in the State Assembly but failing on a tie vote in a second committee.

A more realistic response to urban disorder has been flight to the suburbs—often to subdivisions where homeowners' associations impose strict rules of community conduct. The same mindset that produces decisions like those of Judges Salazar, Parker, and Davis takes offense at such efforts to reestablish civil communities. For example, Evan McKenzie, a University of Illinois political scientist, writes that homeowners' associations

Soundings

have become "private governments that are unchecked by many civic laws." They are, he continues, "a regulatory Frankenstein's monster, seeking to eradicate any behavior that might conceivably pose a threat to property values." McKenzie calls for laws curtailing the ability of homeowners' associations to restrict individual behavior. "Constitutional protections are meaningless if they do not apply in your own home," he writes.

But of course one attraction of these developments is the opportunity they offer to escape the effects of notions of "constitutional protections" unchecked by common sense. Civil libertarians need periodically to be reminded that the assertion of phony liberties inevitably puts real ones at risk.
—James Taranto

The Regulation That Wasn't

Six years ago, the New York City Council came within one vote of enacting commercial rent control. Proponents, led by Councilwoman Ruth Messinger (now Manhattan borough president), pointed with alarm to the boutiques and restaurants sweeping up Columbus Avenue and other recently gentrified districts and claimed that the survival of New York's corner cobblers and neighborhood dry cleaners depended on holding down their rents.

Ironically, commercial rent control's near-adoption coincided almost precisely with the onset of New York's severe recession, which emptied the city's retail corridors of many yuppie emporiums and drove commercial rents down. Today, with sky-high commercial vacancy rates and rock-bottom rents, commercial rent control is a forgotten cause.

The lesson: the conditions that prompt new laws are often transitory, while the potential harms may be permanent. To paraphrase William Congreve on marriage: having legislated in haste, we may repent at leisure. If only New York's lawmakers had waited a year or two longer after World War II before deciding whether to adopt residential rent control.
—Peter Salins

So Much for Physics

Does a multicultural curriculum promote educational excellence? Speakers at a recent City University-sponsored conference, entitled "Diversity in the Urban Schools: Implications for the Preparation of Teachers," seem to view the question as impertinent. The conference's predominant theme was that a single high standard of academic achievement is, in itself, discriminatory.

Keynote speaker Sonia Nieto, a professor of multicultural education at the University of Massachusetts, declared that students need to "look critically at and challenge testing," in order to understand how it "perpetuates inequality." Ramon Santiago, a professor of secondary education at Lehman College, added that "we have to fight the tendency to legislate high standards and skills."

Leslie Agard-Jones, director of multicultural education for the New York City Board of Education, said that blacks and Latinos who disagree that low minority achievement is caused by institutional racism are just making an "excuse"

for society's racism—a fascinating reversal of traditional ideas of responsibility. "We need to redefine terms such as 'excellence,'" he continued, "and ask what they mean in a transformational setting."

The answer is: not much. Multiculturalists would choose teachers on the basis of their ability to promote awareness of racial and ethnic difference, not traditional pedagogical skill. "I would rather have a teacher who's open to differences and sensitive than one who's expert in an area," Nieto declared. Such talk is not the posturing of a fringe group; it is the mainstream. Agard-Jones commands a \$3 million budget to craft multicultural curriculums and train teachers. Even science, Agard-Jones said after the conference, must be "broadened to take into account different views." Scientific "norms" are set by particular groups of people, he claimed; they are not universal. That's some theory of relativity.
—Heather Mac Donald

Suing City Hall

The fastest-growing part of New York's municipal budget is now—amazingly—the cost of the city's getting sued. City lawsuit payouts jumped 20 percent last year, to \$257 million; legal expenses added another \$31 million; and outlays by the independent Transit and Housing authorities brought the total to nearly \$400 million. Many more suits are pending against the city government and its authorities.

A new survey by the National Institute of Municipal Law Officers makes clear that the escalating cost of lawsuits is a problem for local governments nationwide. Town and county governments in 46 states responded to the survey; most were

Soundings

of modest size, half smaller than fifty thousand people. Thirty percent of the larger cities reported being hard-hit by lawsuits, but so did 20 percent of the small towns. Most worrisome, the localities that were in fair or poor shape financially—those that could least afford it—reported the worst lawsuit woes, though the study did not attempt to ascertain why.

Asked which areas of government were most lawsuit-prone, towns overwhelmingly cited police departments. Suits by employees came in second. Zoning and planning spawned frequent suits, while a separate category labeled "environmental" most often provided the costliest suits.

More than a third of the towns surveyed found they had to revise their budgets midway through the previous fiscal year to reflect courtroom surprises. And although none of the towns reported that litigation had yet hurt their bond ratings, several said they expected that to happen in due course. The survey's designers estimate that lawsuits cost American municipalities a total of \$8.6 billion in 1992. All of which suggests that New York City, as it tries to persuade legislators in Albany to take legal reform seriously, should forge an alliance with upstate and suburban communities facing their own less-advanced version of the same problems.

—Walter Olson

Gutless in Albany

In July, as the legislative session was winding down in Albany, it looked as if the State Legislature was on the verge of reforming the Wicks Law, a 73-year-old provision that, most observers agree, has inflated the cost and hindered the quality of public

works in New York State. But in the final minutes of the session, the state AFL-CIO intervened and scuttled an agreement between Governor Cuomo and legislative leaders. Wicks had been saved.

The case against the law is overwhelming. By requiring at least four independent contractors on each project, the law diffuses responsibility and causes delays and cost overruns. The beneficiaries are the specialized contractors—plumbers, electricians, and heating and ventilation specialists—that are guaranteed contracts under the law. The owners of these firms and their workers, many represented by the AFL-CIO, use their substantial clout in the State Legislature to preserve Wicks.

Everyone who follows construction in New York State knows a litany of Wicks horror stories. Example: a Bronx housing project that finished a year behind schedule and \$500,000 over budget because two contractors couldn't agree in November whose job it was to drain the plumbing system. The pipes froze in December, causing extensive damage.

Systematically documenting the case against Wicks is a recent study by a team of economists headed by Princeton's Orley Ashenfelter. The study found that the Wicks Law increased costs by an average of 13 percent. Buildings constructed under the law took an average of 15 months longer to complete than they otherwise would have, and they had more defects.

The study found that repeal of the Wicks Law would have saved more

than \$250 million each year in New York City's capital budget alone, while delivering better buildings faster. Even with such a golden opportunity, New York's political leadership caved in to special-interest pleading.

—Ray Ackerman

Black Progress in Queens

From a recent analysis of data from the 1990 census springs luminous evidence of the rise of the black middle class. According to the study by sociologist Andrew Beveridge of Queens College, blacks in Queens earned a median household income of \$34,314 in 1990—slightly higher than the \$34,075 median for whites.

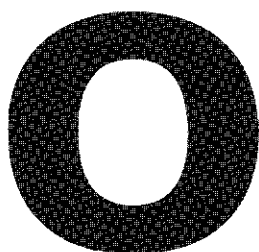
How have Queens blacks done so well? Says Beveridge: "The intact family with the husband and wife working—that's the recipe that works. They're following it." Queens blacks, many of whom are immigrants from Caribbean nations, are about 15 percent more likely to be married than blacks nationwide. Black immigrants in Queens, often skilled and typically thrifty, earned an annual median household income of \$38,650 in 1990, versus \$32,000 for the borough's U.S.-born blacks and \$36,000 for its U.S.-born whites. For blacks nationwide, the figure is \$19,758. Black households in Queens were also more likely to have two wage-earners than were white households.

Beveridge's research poses a challenge to racial arsonists quick to blame all black problems on white racism. As blacks in Queens can attest, hard work and strong families, not race, are the most important factors in realizing the American Dream.

—Deroy Murdock 9

Albany's Toxic Taxes

Rob Norton



Rich in every other advantage, New York State's economy withers under a thirty-year tax blight. It's time to reverse the tax-and-spend plague now.

One morning next summer, a convoy of nine trailer trucks will pull up at a factory on Sweet Hollow Road in Old Bethpage, New York. Movers will load up the machinery, inventories, fixtures, office equipment, furniture, and files and cart it all away to Charleston, South Carolina. Life Industries, a manufacturer of marine cleaners, sealants, and adhesives since 1969, is leaving New York. With it will go 22 jobs—and yet another piece of New York's industrial base.

The departure of Life Industries is both a symptom of what's wrong with New York State and a harbinger of the grim economic fate that awaits unless there is a transformation of the state's taxing and spending policies. To put it bluntly, New York has become a lousy place to do business.

Within living memory, of course, the Empire State had as good a business climate as any place in the United States—or in the world, for that matter. But decades' worth of Albany's tax-and-spend arrogance, its tendencies toward budgetary flimflam, and its disregard for the businesses that pay the taxes and meet the payrolls have produced an environment that is driving existing companies away and discouraging new ones from coming. Louise Schmidt, Life Industry's chief executive officer, is merely being matter-of-fact when she says: "New York doesn't want you here if you're a manufacturer. They just want you to keep paying the taxes."

The service industries that make up the meat of New York State's economy have been feeling equally unwelcome. Bankers and stockbrokers have been moving "back office" jobs—clerks, secretaries, systems analysts—either to neighboring states, like New Jersey and Pennsylvania, or to more distant states that have purposefully reconfigured their tax codes to attract the business, such as Delaware and South Dakota. The list of departees is a who's who of banking and finance: Citicorp, Lehman Brothers, MasterCard, Met Life, J.P. Morgan, Moody's, NatWest, Salomon Brothers.

Some of the reasons for the decline of New York as a business center lie beyond the purview of public policy. Northeasterners have migrated to the sunbelt, drawn to its more clement climes. And the continuing revolution in communications, along with improvements in transportation, has lessened the need for businesses, their suppliers, and subsidiaries to cluster around the older industrial hubs like New York City, Troy, Syracuse,

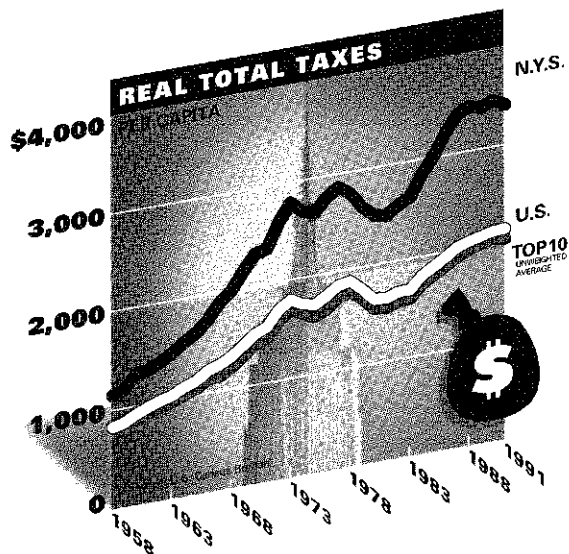
**Since the late 1950s,
New York State's per capita
tax burden has grown far
faster than other states'.**

Rochester, and Buffalo. Related to that is the trend towards the globalization of industry, with U.S. companies setting up subsidiaries and production facilities closer to their customers and far from corporate headquarters.

But many of the reasons for New York's eclipse are a direct consequence of bad policy decisions made in Albany, the main one being the state's fiscal practices—the way it taxes and spends. The degeneration of fiscal policy began as early as the 1950s. Then the most populous and richest state, New York became lazy and complacent. Politicians embraced the seductive notion that state and local government could be all things to all people, and they assumed they could pay for the expanded services with a limitless supply of tax revenue. As former Governors Malcolm Wilson and Hugh L. Carey put it in the foreword to a recent book on New York's economic predicament, *The Comeback State*: "We didn't know it at the time, but the post-World War II era would be the beginning of a long, profound decline relative to our sister states."

Just stopping that decline and taking the first steps to reverse it will require heroic efforts. The tax reforms of the last seven years were small steps in the right direction. But the tiny tax cuts enacted last year and the \$1.5 billion in further cuts promised recently by the Cuomo administration are too small by at least an order of magnitude. New York needs to cut tens of billions of dollars from both state and local spending merely to restore itself to rough parity with other states.

The fundamental explanation for New York's relative decline lies in the statistical data comparing its tax burden with those of the other states. That uncommonly high taxes are bad for business formation, job creation, and economic growth is almost intuitively obvious, and eloquently persuasive evidence for the idea can be found in a substantial body of recent economic research. More practical proof can be found simply by talking to the New York business owners and managers who are fleeing or have decided that future expansion will take place in more business-friendly locales.

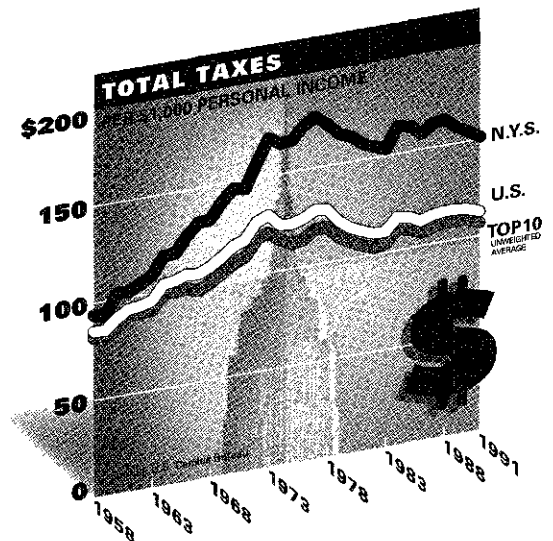


The anecdotal evidence is underscored by opinion surveys and data on migration and job creation.

A convenient place to start is 1958. For one thing, the best series of data comparing taxes among the fifty states begins in that year. More important, anyone familiar with New York at the time will agree that the quality of life in general, and of government services in particular, was far better than it is today or has been at any time recently. The New York State Thruway, the longest and most modern highway in the world, was largely completed. The Saint Lawrence Seaway would open a year later. The state's educational system was the envy of the nation. From Buffalo to Brooklyn, the streets were safe and clean. Children rode the subways of New York City unafraid and unmolested.

As the chart above shows, New York was a high tax state even then, but look closely at how the tax burden changed in the subsequent decades. The data are adjusted for inflation, so all dollar amounts are expressed in 1991 dollars. They are also shown per capita rather than in total, to adjust for the effect of changes in population. Combined state and local taxes are used, since that is the measure of the tax burden that counts in economic terms. Untangling local and state taxes is difficult for New York, since much local spending—notably for Medicaid and education—is effectively mandated by the State Legislature and by state regulatory authorities. Indeed, a recent study by the New York Association of Counties estimated that 60 percent of the average county's spending is effectively directed by Albany. Local governments, for example, are required to use separate contractors for plumbing, heating, and electrical work, even when it is more expensive than using a single contractor. School districts are compelled to pay bonuses to

Even when adjusted for New York's higher income levels, New York State's taxes are still way out of line.



teachers under the Excellence in Teaching program, even if the local school board doesn't think bonuses are merited and would prefer to spend the money on something else, such as books. Local fire departments are required to give trainees forty hours of instruction as peace officers. Other studies have estimated that New York controls more local spending than any other state. In addition to data on the national averages, the average of the ten most populous states is given as well, since these urban states share more common characteristics with New York.

Back in 1958, real total taxes per capita in New York were \$1,140 in 1991 dollars, 37 percent higher than the national average, and 34 percent higher than the average of the ten most populous states. New York taxes grew faster than these averages throughout the 1960s—rocketing upward in the latter part of the decade and in the early 1970s. By 1973, New York's per capita taxes were 55 percent higher than the nation's, and 63 percent higher than the average of the ten most populous states.

The 1970s saw the tax burden actually fall, reflecting both economic distresses such as the recession of 1973-75 and the fiscal rectitude of the Carey administration, which held the statehouse and the line on taxes from 1975 through 1982. But taxes again began growing much faster than the national and big-state averages in the mid-1980s. Tax growth leveled off late in the decade. Nevertheless, in 1991 (the most recent year for which these uniform data are available) New York's tax burden stood at \$3,340 per capita, 58 percent higher than the nation as a whole and 66 percent higher than the big-state average.

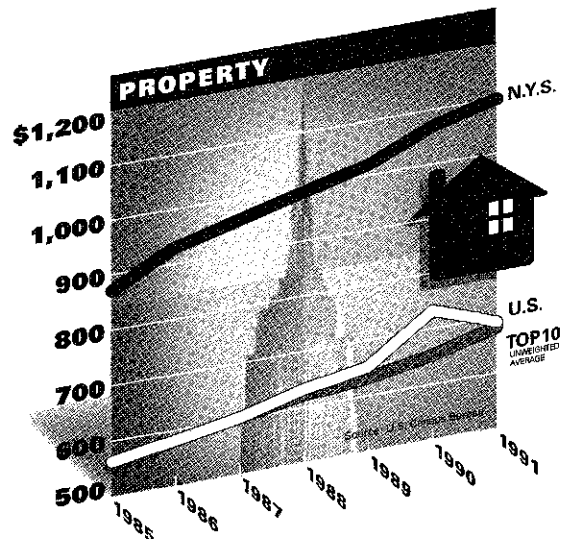
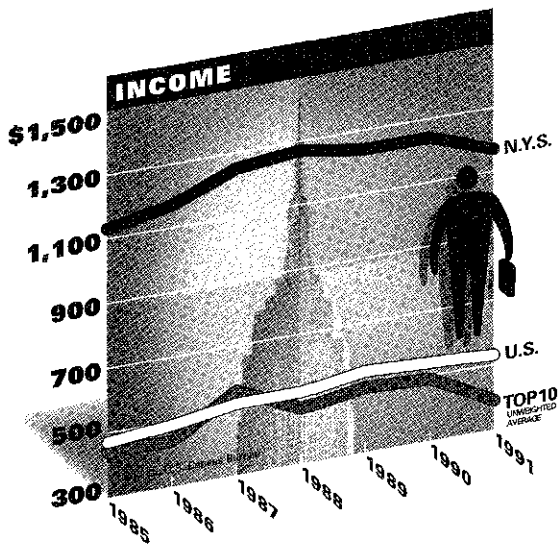
Proponents of high taxes sometimes argue that the simple measure of total per capita taxes is misleading, because it fails to recognize that on average people have become richer over time and thus more able—perhaps even more willing—to pay higher taxes in return for more and better services. To answer this objection, the chart above shows total state and local taxes per \$1,000 of income, which effectively adjusts the data to reflect changes

in wealth. Again, the tax burden rose much faster in New York than elsewhere, especially from the late 1960s into the mid-1970s. In 1958, New York's taxes per \$1,000 of income were 9.8 percent higher than the national average, and 14 percent higher than the ten most populous states. The gap widened to 39 percent above the national average in 1976 and has narrowed slightly since then. In 1991, New York's taxes per \$1,000 of income were 34.5 percent higher than the national average, and 41.5 percent higher than the average of the ten most populous states.

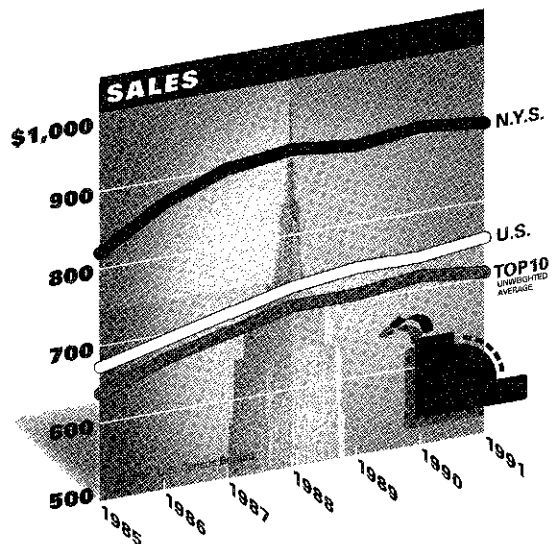
Albany has worked all the levers of tax policy to accomplish this increase in the tax burden. The charts opposite, on page 13, break out per capita income taxes, property taxes, and sales taxes for New York, the nation, and the ten biggest states. According to a study by economist Alvin Rubushka, New York's real income taxes per capita—today more than *double* the national average—grew most sharply relative to the other states from 1983 to 1987. In the other two major categories of taxes, property taxes and sales taxes, New York has maintained a considerable lead—a quarter to a half again as high as the rest of the nation.

These comprehensive measures of taxes all point to a single conclusion: the state's tax burden is significantly higher than the burden for the nation as a whole or for other large states. The data cut through the fiscal fog that emanates from Albany. Look at the tax reductions of 1987. The year before, the Reagan administration's federal tax reform simultaneously cut federal tax rates and broadened the base of taxable income by doing away with many tax loopholes and by limiting deductions. Since New York uses federal taxable income as the

PER CAPITA STATE AND LOCAL TAXES



The average New Yorker pays more than twice as much in state and local income taxes as other Americans (upper left); his property and sales taxes are considerably higher as well.



base on which it imposes state and local taxes, the effect of raising taxable income by reducing deductions would have been a huge tax increase for New Yorkers, unless New York cut its own tax rates. Instead of promptly lowering rates to offset the tax windfall, Albany announced a five-year phase-in of lower rates, from a top marginal rate of 8.75 percent to 7 percent, which was supposed to be in effect by 1991. But the governor and legislature quickly moved to postpone the rate reductions, and the 7 percent top rate has still not taken effect (it is scheduled to go into effect next year). Meanwhile, inflation has pushed taxpayers into higher brackets, partly offsetting the rate reductions. The derailment of the 1987 tax cuts has cost New Yorkers at least \$1.8 billion, according to an analysis by the Republican staff of the Assembly Ways and Means Committee. For a family of four with an income just over \$45,000 per year, this translated into additional state income taxes of \$237 in 1991.

The most basic idea of economics suggests that higher taxes would discourage business activity: raise the price of something, and you'll get less of it. In a free country such as the United States, you would also expect businesses to migrate to lower-tax locales. Nevertheless, up until fairly recently economists generally thought that state and local

taxes had little effect on business location and development compared with the effect of access to markets, suppliers, and labor. A considerable body of research done in the 1980s and 1990s has shifted the consensus dramatically. Timothy J. Bartik, a senior economist at the W.E. Upjohn Institute for Employment Research, an independent organization in Kalamazoo, Michigan, surveyed the field in 1992 and concluded: "This recent research suggests that state and local taxes have much stronger effects on the economic development of states, metropolitan areas, and small jurisdictions than was once believed."

These studies vary widely in the kinds of data they use, the geographical comparisons they make, and the time periods they cover. Allowing for the differences and averaging the results, Bartik concluded that a 10 percent cut in tax rates—from 5 to 4.5 percent, for example—will increase business activi-

Albany's Toxic Taxes

ty by 1 to 8.5 percent. One study estimated that a 10 percent increase in a locality's property tax rate—from, say, 5 to 5.5 percent—will decrease the property tax base by 1.5 percent over time. Another found that small changes in tax rates for certain kinds of businesses can lead to anywhere from a 1 to a 10 percent decline in the number of start-ups in that industry.

The research shows that business location decisions are especially sensitive to tax rate differences among jurisdictions within a metropolitan area, such as when a company has decided to locate in the tristate area and must choose between New York, New Jersey, and Connecticut. Barik, for instance, took the average result of seven studies and found that they suggest that a given jurisdiction's 10 percent cut in property taxes would increase its level of business activity by 17.6 percent over twenty years.

State taxes also affect foreign direct investment (purchases of companies, buildings, and land) in the United States, which provides an important source of capital to fuel the economy. James R. Hines Jr., an economist at Harvard's Kennedy School of Government, recently compared investments by companies from nations that give home-country tax credits for U.S. state taxes with those from nations that do not. He found that a 1-point difference in state corporate tax rates—going from 5 to 6 percent, for instance—meant that foreign companies that could not write off taxes would invest between 7 and 9 percent less in that state, "suggesting that state taxes significantly influence the pattern of foreign direct investment in the U.S."

So much for theory. Now look at the question of tax burdens from the point of view of Louise Schmidt, chief executive of the boat care product manufacturer that is weighing anchor for South Carolina. Real estate taxes on the firm's 23,500-square-foot plant are currently \$82,000 per year. Taxes for the new, slightly larger plant in Charleston are \$14,000. "That's all bottom line," says Schmidt. "It's really hard to justify a profit dif-

ferential like that." Many other costs will fall as a consequence of the move. Life Industries uses a lot of electricity. Costs per kilowatt-hour, Schmidt figures, will fall by half. The main reason for New York's high energy costs is that state and local governments use energy companies as tax collectors. On average, state and local taxes make up a fifth of energy utility bills in New York. For electricity customers, the tax burden is twice the national average. The broader measures of the tax burden confirm Schmidt's wisdom in moving. The basic corporate tax rate is 5 percent in South Carolina compared to 9 percent in New York. By the broadest measure of tax burden, New York's total tax revenue per capita was \$3,337 in 1991, more than twice South Carolina's \$1,561.

New York's legislature has created a hodgepodge of hidden taxes, add-ons, and supposedly temporary tax hikes to raise revenue surreptitiously. Some are almost comical, such as the ten-cent-per-quart "lubricating oil tax" that was enacted in 1990 to pay the debt service on new environmental bonds. (The bonds were never issued and the tax was finally repealed this year.) Others are just as insidious. Take telephone taxes. A 1992 study by Wellesley economist Karl E. Case found that state and local taxes added up to 17.9 percent of Bell company operating revenues in New York. That's twice the 9.2 percent average for the ten largest states. The rate for California was only 4.8 percent. A "business tax surcharge," enacted in 1990 and boosting taxes on business income by 15 percent at the stroke of a pen, was supposed to disappear in 1993. This year's budget postponed the phaseout to 1997, adding a total of \$122 million to the state's corporate tax bill.

In some cases, these shenanigans have serious unintended consequences for New York's competitiveness. In 1983, as part of a \$1 billion revenue package, the state imposed a new petroleum gross receipts tax, billed as a temporary levy that would soon fall to lower levels and end by 1985. Instead, it was made permanent and later transmogrified into the Petroleum Business Tax (PBT), currently about 15 cents per gallon of gasoline. The tax rate was linked to an index of oil prices. Since oil prices have plummeted in recent years, tax revenues should have declined, but in the last three years, the legislature voted to freeze the PBT index rather than permit the scheduled drop (it would have fallen 20 percent in 1995).

Travel Ports of America is a Rochester-based corporation that runs truck stops in New York and six other states. The company's revenues last year were \$137 million. These aren't your corner gas stations. They typically feature repair shops, restaurants, convenience stores, and motels. It's a competitive business: long-distance trucks typically can go 2,100 miles without fueling, so truckers can be choosy about where they tank up.

Travel Ports employs some six hundred New Yorkers. Were it not for the state's inhospitable business climate—especially the stiff fuel taxes, which push the retail price of diesel oil to \$1.29 per gallon in New York versus \$0.96 to \$1.17 in nearby states—Travel Ports would be adding an additional 125 jobs next year. The company had signed a contract to purchase land for a new truck stop in Batavia, near the New York State Thruway, but bailed out when the legislature passed the 1991 fuel tax hike. Instead, Travel Ports purchased a 72-acre site 110 miles further west on the same road, in Erie, Pennsylvania, and the company is spending between \$5 million and \$6.5 million building the new truck stop there. The facility will open for business next summer. Says Travel Ports president John Holahan: "We're looking to expand in all the states we're in except New York."

The fuel tax has had wider detrimental effects on the trucking business in New York. Twenty years ago, several of the largest trucking firms in the nation were based in the state. Ten years ago, there was still one in the top hundred. But now all have fled or have gone out of business, taking their once familiar names—Penn Yan, Red Star—with them. Their places haven't been filled by newcomers, and today not a single one of the top three hundred trucking firms is based in New York.

Another businessman who has ruled out further expansion in New York is William F. Allyn, chief executive officer of Welch Allyn, a manufacturer of medical diagnostic equipment based in Skaneateles. With sales of over \$200 million per year, Welch Allyn employs 1,200 people in New York and another 600 in plants in North Carolina, New Hampshire, Ireland, and Germany. Allyn has been encouraged by the recent tax reduction efforts from Albany. But the state's overall tax burden, especially the taxes levied on energy, still make New York uncompetitive in Allyn's view. "We've been here eighty years, and it would take a lot to

get us to leave, but we need to compete on an economic basis. We wouldn't look favorably on expansion in New York. It's not a threat; it's a reality, and if someone could prove me wrong I'd be glad to listen."

Surveys of New York business people turn up even more negative assessments of the state's business climate. In a recent poll of 122 companies in western New York, conducted by the Greater Buffalo Development Foundation, 46 percent said they would not undertake a major expansion project in New York—with taxes the most frequently cited reason. A 1993 survey of more than eight hundred executives by the Business Council of New York State found that nearly three out of four consider the level of state and local taxation a negative factor influencing their ability to grow in New York. Nearly 42 percent called the climate for doing business in New York much less favorable than in other states; 38.7 percent said it was somewhat worse. When asked where their companies would add jobs if they were able to, 16 percent of applicable companies said they would locate new jobs outside the state because of the poor business environment. The manufacturers, as distinct from the service providers, were even more downbeat: one-fifth said they would expand elsewhere. Indeed, polls of business sentiment by the Business Council have been so negative that the organization has sometimes suppressed the results for fear of further damaging the business climate. "We have to walk a fine line between pointing out the problems and planting ideas in people's minds," says Robert B. Ward, the association's research director.

What's bad for business, of course, is bad for jobs, and job growth in New York has been far weaker than in the rest of the nation or in other big states. As the chart on page 16 shows, since 1958, employment in the United States has grown 115 percent. In the other big states, jobs have grown 122 percent on average. New York's job growth is a feeble 28 percent. What is especially alarming about these data is that since 1989 New York has been losing jobs even while other states have recovered. Data from the Internal Revenue Service, which tracks migration between states based on the number of taxpayers and their dependents claimed on federal income tax returns, provide a close-up picture of New York's relative decline in recent years (see chart on page 17). Some 140,000 more taxpayers and family members have been leaving the state each year than have been moving in.

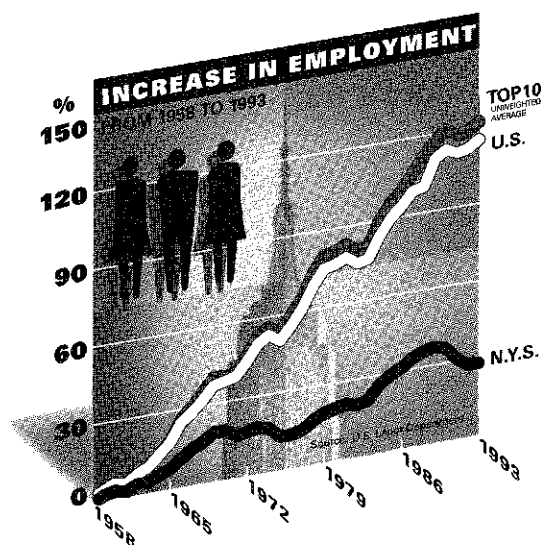
Albany's Toxic Taxes

What does New York need to do to make itself competitive again? To create an atmosphere where businesses will at least consider starting up new operations or expanding existing ones? Where manufacturing companies will feel welcome, where the existing business base won't be lured away by other states, and where job growth can reaccelerate to the typical speed of other states?

By far the most important thing is for New York to make deep, wide cuts in spending and taxes. The only effective way to do this is to decide on overall targets and then work backward and downward from there, apportioning the reductions among programs and policies. This is the standard corporate model for cost cutting, applied by thousands of businesses over the past dozen years as American companies have scrambled to regain their own competitiveness. It is also the way the Federal Government has managed to achieve the modest deficit reductions of the last five years.

How far must New York cut taxes? The only sensible goal is to reduce per capita total state and local taxes to the average of the other large states. This implies major surgery, amounting to tens of billions of dollars in tax and spending cuts, not the kind of mild palliative prescribed this summer by the Cuomo Administration. Total state and local spending in New York was \$98.5 billion in 1991, so each 10 percent reduction in spending equals nearly \$10 billion. Reducing the tax burden to the average of other large states would not give New York any big fiscal advantage over its competitors for new and exiting businesses; it would merely take away the handicap New York has been laboring under, which unnecessarily restrains the extraordinary creative and entrepreneurial energies which the state has in abundance.

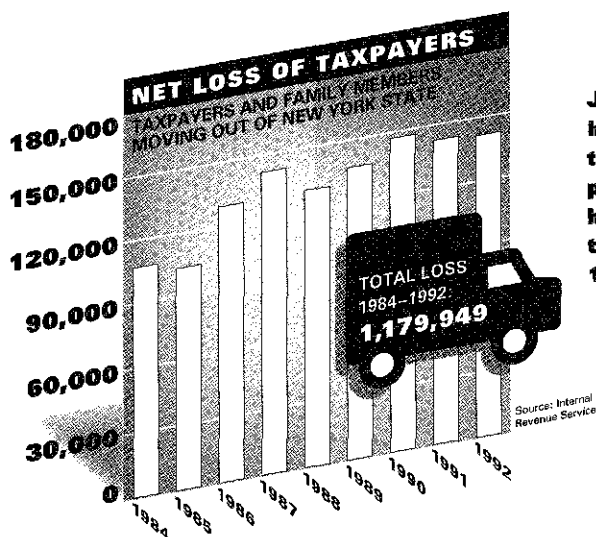
Perhaps the most ambitious and sensible of the many plans for cutting New York's tax burden is a draft report by the Private Sector Commission on Cost Control, which was created by the governor and the legislature in 1990. A "confidential discussion draft" was leaked in 1991, but the report was never approved by the commission and was effec-



tively buried as politically unacceptable. The goal set forth in the confidential draft was to cut or contain the growth of costs enough to bring state and local government spending down to within 10 percent of the average of the other ten largest states within five years. Then, as now, this would mean a 30 percent reduction in combined state and local budgets.

That's an ambitious but not outlandish goal. When New Jersey governor Christine Todd Whitman pledged during her 1993 campaign to reduce state income taxes in New Jersey by 30 percent, she was met with derision by political opponents and by most of the media. But by July of this year she had pushed through the first two cuts, 5 percent and 10 percent respectively, and she vows to enact another two rounds to reach the 30 percent goal by 1997. Although Whitman's tax-cutting plan is the boldest recent initiative, several other states are also cutting taxes with gusto. Michigan, for instance, is replacing property taxes with sales taxes as its method of school funding, and in the process creating an overall tax reduction of several hundred million dollars. Arizona has cut taxes in each of the last three years. Other states with planned tax reductions include Massachusetts, South Carolina, Mississippi, and Virginia.

Massive tax cuts could only happen in New York in the presence of powerful, single-minded political leadership. New York has farther to go than New Jersey or any of the other states that have launched tax-cutting programs, given its outsized tax burden. Since nearly half of the taxes on New Yorkers are levied at the local level, a true tax revolution must include large cuts in property taxes as well as in income and sales taxes. Coordination of the tax cuts would be necessary to ensure that state taxes were not merely shunted down to the local level.



Job growth in the Empire State has been sluggish compared with the rest of the nation (opposite page). And New York's high taxes helped spur an exodus of more than a million taxpayers from 1984 to 1992.

Per capita welfare spending, just over half of it for Medicaid, is twice as high as the top-ten average; health and hospital spending is 80 percent higher. Savings of \$13 billion—about 13 percent of total state and local spending—would result if both these spending categories could be reduced to the U.S. average.

The solutions to the Medicaid cost explosion are also well understood. New York needs to tighten eligibility requirements and reduce the number of optional services. The biggest reforms the state could undertake would be to encourage more competition among Medicaid service providers and to accelerate efforts already under way to move Medicaid recipients into managed-care programs. Other states have successfully reined in Medicaid spending, notably Massachusetts and California. (The turnaround in California is recounted by Edwin S. Rubenstein in "Emergency Surgery for Medicaid," *City Journal*, Spring 1991.)

The state's inefficient and costly system of primary and secondary education is another area where large savings are needed. New York spent \$1,211 per capita on primary and secondary education in 1991, 40 percent more than the national and big-state average. Spending has continued to increase, even as school enrollment has fallen and test scores have worsened. Cutting spending on elementary and secondary education to the U.S. per capita average would produce \$6.3 billion in savings—a 6 percent reduction of total state and local spending.

One major reform could help deliver the needed savings: cut back and eliminate state educational mandates. A 1991 report by the education department estimated that 71 percent of local school district budgets are controlled by state mandates. This prevents parents, teachers, and local school officials from finding efficient ways to deliver services at lower cost. The most direct way to cut school spending is to eliminate overhead. Over the past twenty years, enrollment has dropped by nearly a million, and the number of teachers has decreased by 3 percent. But the number of administrators and

The austerity implied by a 30 percent tax reduction would force New York State and its cities, counties, and villages to rethink the way they spend money. There are no secrets about where the major spending cuts would have to come from. The top three are medical spending and welfare costs, primary and secondary education, and general government overhead. Former New York City mayor Edward I. Koch is characteristically pithy on the subject of New York's spending: "We've got to reduce the quantum differentials in the services provided by the City and State of New York compared with other states. We provide Cadillacs and they provide Fords. I say, let's have Fords."

Take Medicaid. New York's total spending on Medicaid in 1991 was nearly nine times the national average. To put it another way, with 7 percent of the nation's population and less than 10 percent of all Medicaid recipients, New York spent nearly 20 percent of all Medicaid dollars. New York is one of the few states that provides nearly all the optional Medicaid benefits that the federal government permits—loading up the Cadillac, to extend the metaphor, with leather seats, extra chrome trim, and the deluxe CD player. New York also has unusually generous eligibility rules that, among other things, permit well-to-do and middle-class individuals to get subsidized nursing home care. New York Medicaid patients spend more time in the hospital than patients in other states, and the fees paid for nursing and hospital services are considerably higher than in many other states.

The federal comparative data used in the chart on page 18 show Medicaid costs as part of two categories—health and hospitals and public welfare—and the chart reveals how far out of line New York's costs have risen. Medicaid grew faster than any other single spending program in the 1980s.

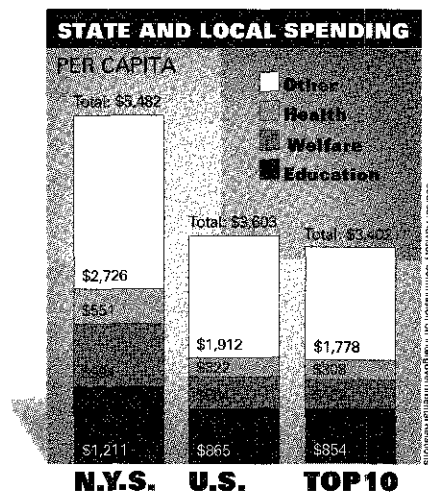
Albany's Toxic Taxes

other nonteaching professionals has increased by 13 percent. Albert Shanker, president of the American Federation of Teachers, has said there are more school administrators in New York State than in all of Western Europe, and more in New York City than in France.

The problem of overstaffing is, in fact, rife throughout New York state and local governments. Overall, New York had 1.1 million full time workers on state and local payrolls in 1991, or 622 per ten thousand population in 1991, compared to an average of 523 nationwide. Their average annual earnings were \$35,568, versus a national average of \$29,748. Reducing the number of employees to the national average would mean a 16 percent reduction of headcount—well within the range that many companies have been forced to impose over the last decade—and would save about \$6.4 billion per year. Cutting the pay of the remaining employees to the national average would save a further \$5.4 billion. It's hard not to believe that major streamlining is possible, especially given the duplication and overlap of services that have grown up over the years. The Private Sector Commission on Cost Control identified many of these: for example, in the field of mental health, the Office of Mental Health, the Health Department, and the Office of Mental Retardation and Developmental Disabilities are all overseen by the Commission on Quality Care for the Mentally Disabled.

Even allowing for some double counting of cuts from personnel reductions, the spending cutbacks in just the few large categories enumerated here add up to well over 20 percent of total state and local spending. Critics of state spending, such as the Empire Foundation, Citizens for a Sound Economy, and the Business Council, have identified billions of dollars worth of other potential savings in programs such as the prison system (spending per prisoner is 40 percent higher in New York than in other large states) and the public universities (which offer subsidized tuition to the wealthy as well as to the needy). Cutting state and local spending by 30 percent over five years may be hard. It is far from impossible.

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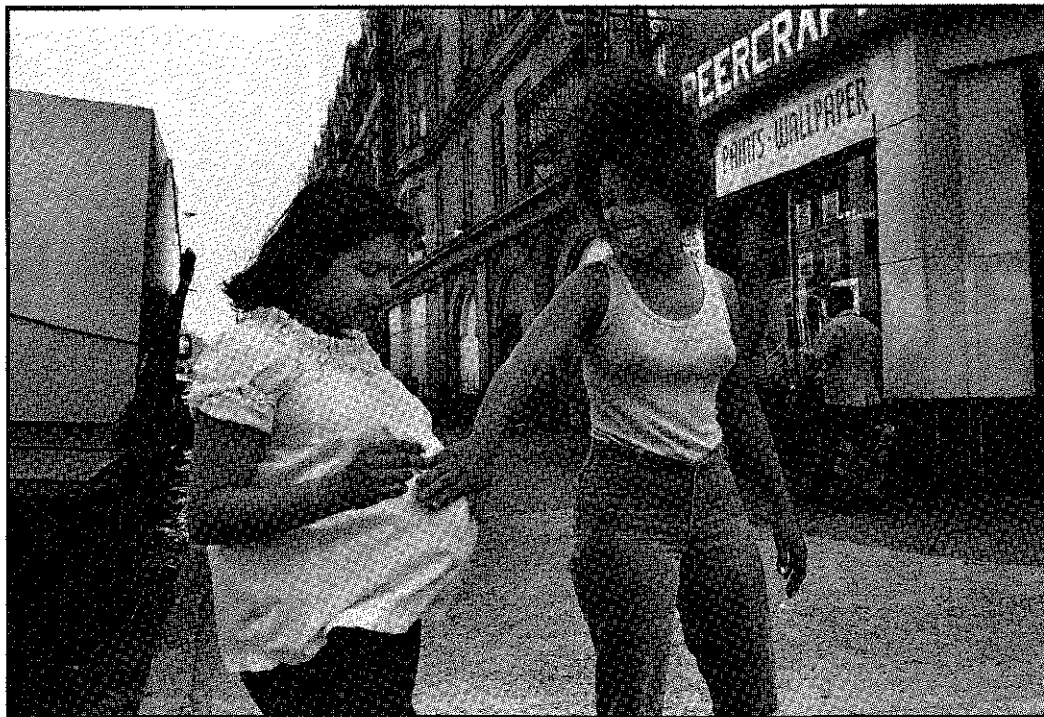


N.Y.S. U.S. TOP10
In all major categories, government spending in New York State is vastly higher than elsewhere.

Fundamental fiscal reform on this scale will require what psychiatrists call an attitudinal change in Albany, where the legislature over the years has often looked more like a bipartisan pig trough than a deliberative body. Liberals don't come down too hard on Republicans who want higher spending for suburban schools, so long as the conservatives don't raise a ruckus about welfare outlays, and so on ad infinitum. The quintessence of the Albany attitude is the annual rite known as members' items. These are home district goodies doled out as patronage by party leaders in the final moments of the budget negotiations. This year, the legislature approved \$48 million in such spending, split 50-50 between each house. This year's list, released literally in the dead of night, included such items as a \$2,500 grant to repair the fence around a roller rink on Long Island and \$5,000 to pay for advertising for a glider museum near Elmira.

There is always a constituency for this kind of spending, as well as for the bigger, more serious spending categories such as Medicaid, welfare, and education. As George Bernard Shaw put it, "The government that robs Peter to pay Paul can always depend on the support of Paul." But in New York's case, the Peters—the businesses and individuals that pay the taxes—increasingly have had enough and are voting with their feet. If New York persists on its present path, the business base will continue to erode, job growth will stagnate, and the tax base will eventually shrink. The per capita burden will then have to rise even more, simply to support the same level of spending that already exists.

The Teen Mommy Track



MARY ELLEN MARK

Jeanette of Brooklyn (with friend), pregnant with her first baby at 15.

Kay S. Hymowitz

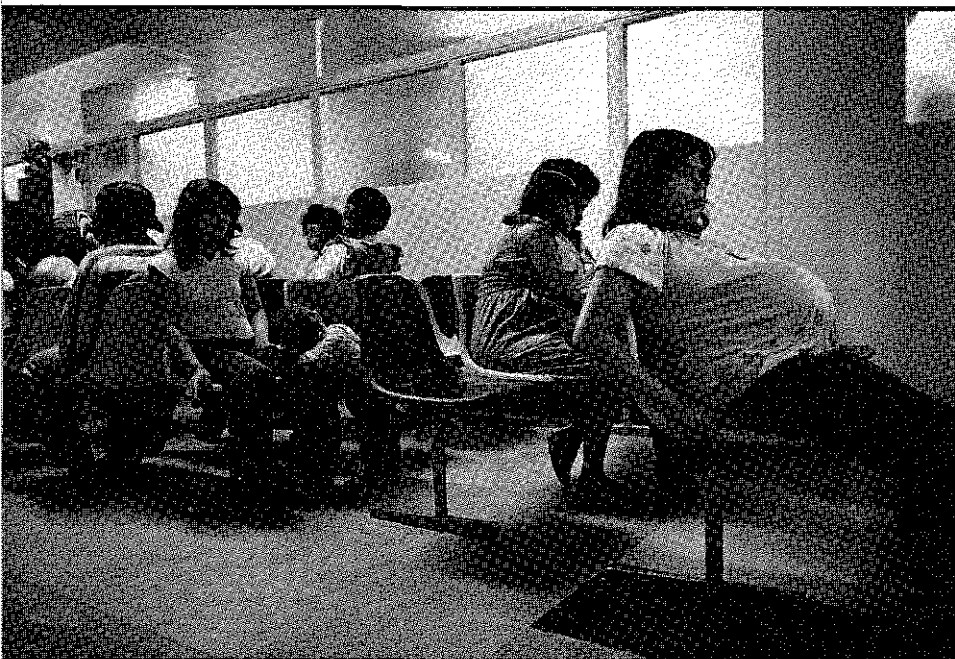
**Everyone
has a theory
about why
teenage girls
have babies.
What do teens
themselves say?**

Fourteen-year-old Taisha Brown is thinking of having a baby. She doesn't say so directly, and it doesn't seem about to happen tomorrow, but she smiles coyly at the question. Around her way—a housing project in the South Bronx—lots of girls have babies. Her 16-year-old cousin just gave birth a few months ago, and she enjoys helping with the infant. "I love babies," the braided, long-legged youngster says sweetly. "They're so cute. My mother already told me, 'If you get pregnant, you won't have an abortion. You'll have the baby, and your grandmother and I will help out.'" What about school or making sure the baby has a father? "I want to be a lawyer . . . or maybe a teacher. Why do I need to worry about a father? My mother raised me and my sister just fine without one."

Taisha Brown seems likely to become one of the nearly half-million teenagers who give birth each year in the United States, a number that gives the nation the dubious honor of the highest teen birth rate in the developed world. About two-thirds of those girls are unmarried; many are poor. Americans debating welfare

*Research for this article was supported
by the Brumie Fund for New York Journalism.*

The Teen Mommy Track



Jeanette waits at a Brooklyn clinic.

reform and the state of the family have no shortage of opinions about the cause of the problem: welfare dependency, low self-esteem, economic decline, ignorance about birth control—the list could go on and on. All these theories fail to explain the actual

It is, by and large, a culture created and ruled by children, a never-never land almost completely abandoned by fathers and, in some sad cases, by mothers as well.

experiences of teenagers, because they ignore the psychology of adolescence, the differences between underclass and mainstream cultural norms, and the pivotal role of family structure in shaping young people's values and expectations.

To get a clearer focus on the teen pregnancy problem, I spoke with some thirty new or expectant young mothers and sometimes with their boyfriends, nurses, teachers, and social workers. (To protect their privacy, I've identified the teenagers with fictitious names.) I asked about their

lives, their expectations, and their babies. The girls' stories vary widely: from a 15-year-old, forced to live in seven different foster homes over the last five years, whose sunken eyes hint of Blakean misery, to a 17-year-old college student who describes herself as "old-fashioned" and has been cheerfully dating the same boy for five years.

It gradually became clear that, however separated they may be by degrees of poverty and family disorder, these girls all live in a similar world: a culture—or sub-culture to be precise—with its own values, beliefs, sexual mores, and, to a certain extent, its own economy. It

is, by and large, a culture created and ruled by children, a never-never land almost completely abandoned by fathers and, in some sad cases, by mothers as well. But if such a culture is made possible by adult negligence, it is also enabled by mixed messages coming from parents, teachers, social workers, and the media—from mainstream society itself.

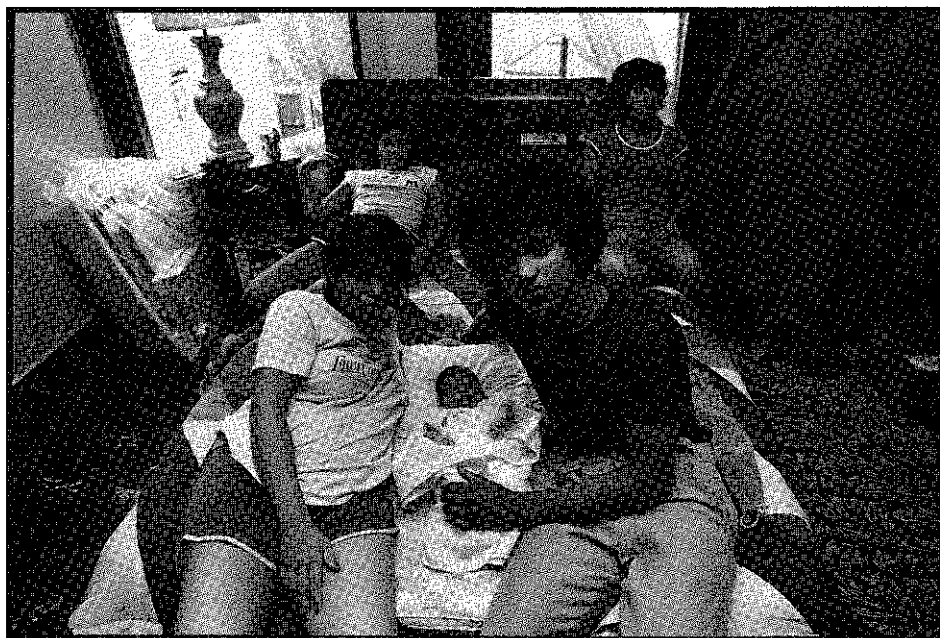
Sociologists sometimes use the term "life script" to refer to the sense individuals have of the timing and progression of the major events in their lives. At an early age, we internalize our life script as it is modeled for us by our family and community. The typical middle-class American script is familiar to most readers: childhood, a protracted period of adolescence and young adulthood required for training in a complex society, beginning of work, and, only then, marriage and childbearing. The assumption is not merely that young adults should be financially self-supporting before they have children. It is also that they must achieve a degree of maturity by putting

the storms of adolescence well behind them before taking on the demanding responsibility of molding their own children's identity.

But for the minority teens I spoke with, isolated as they are from mainstream mores, this script is unrecognizable. With little adult involvement in young people's daily activities and decisions, their adolescence takes on a different form. It is less a stormy but necessary continuation of childhood—a time of emotional, social, and intellectual development, than a quasi-adulthood. The mainstream rites of maturity—college, first apartment, first serious job—hold little emotional meaning for these youngsters. Many of the girls I spoke with say they aspire to a career, but these ambitions do not appear to arise out of any deep need to place themselves in the world. Few dream of living on their own. And all view marriage as irrelevant, vestigial.

To these girls and young women, the only thing that symbolizes maturity is a baby. A pregnant 14-year-old may refer to herself as a "woman" and her boyfriend as her "husband." Someone who waits until 30 or even 25 to have her first child seems a little weird, like the spinster aunt of yesteryear. "I don't want to wait to have a baby until I'm old," one 17-year-old Latino boy told me. "At 30, I run around with him, I have a heart attack."

The teen mommy track has the tacit support of elders like Taisha's mother, many of whom themselves gave birth as teenagers. Even if they felt otherwise, the fact is that single mothers in the inner city don't expect to have much control over



Jeanette with baby, Chastity, and boyfriend, Victor, 14.

their kids, especially their sons, after age 13—on any matter. And, with few exceptions, the fathers of the kids I spoke with were at best a ghostly presence in their lives.

Commonly, mothers expect their older children to care for, and to socialize, younger siblings and cousins, a process that, as Ronald L. Taylor of the University of Connecticut speculates, disconnects children from adult control. Fifteen-year-old Rosie, now carrying a child of her own, describes how she had always taken care of her younger brothers, though their mother did not work outside the home. The youngsters started calling their sister "Mom" when she was nine. In a heart-rending example of this phenomenon, Leon Dash, in his book *When Children Want Children*, tells of a baby-sitting six-year-old girl hysterically trying to figure out how to mix formula for her infant brother.

Most adolescents are heartbreaking conformists, but kids with little parental supervision are

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AUTUMN 1994

The Teen Mommy Track

especially vulnerable to their friends' definitions of status and style. As Greg Donaldson, author of *The Ville*, notes, the streets and projects of the inner city are dominated by kids; one sees few middle-aged or elderly adults. It's no wonder such children look to their peers from an early age for guidance and emotional sustenance. *Harper's* magazine quoted a pregnant 14-year-old, who had been taught about birth control, abortion, and the trials of single motherhood, and who captures the spirit of this teen world I saw so often: "All my friends have babies. I was beginning to wonder what was wrong with me that I didn't have one too."

In this never-never land, having a baby is a role-playing adventure. In the labor room, nurses say, younger teens sometimes suck their thumbs or grasp their favorite stuffed animal between contractions. The young mother's boyfriend, if he is still around, plays "husband"; the new baby is a doll that mothers love to dress up and take out for walks in shiny new strollers. In one high school program to discourage pregnancy, I was told, each girl had to carry around a five-pound bag of rice for a week, always keeping it in sight or paying someone to watch it. By the end of the week, several girls had dressed up their bags in clothes from Baby Gap. "It's like a fashion show," says one expectant 18-year-old. "At least for the first two years. Then they're not so cute anymore. After that, the kids are dressed like bums."

While the girls play mother, some of the lost boys of never-never land seek sexual adventure to test their early manhood. They often brag about their conquests, which they achieve with promises—sneakers, clothes, a ride in a nice car—and with flattery. "You know I love you, baby," they'll tell a girl. "You're so pretty." Fathering children is also a sign of manhood. A group of four disgruntled young Hispanic girls, strolling their babies down a shopping street in Brooklyn, say they have sworn off men forever and that they know of boys who get tattooed with their children's names like bombardiers tallying hits on the sides of their airplanes. Legend among these girls has it that the occasional adventurer surreptitiously punctures

a condom to outwit his reluctant conquest.

But bravado, playacting, and fashion-consciousness are not the whole story, particularly for the older adolescents I met. For many of them, a baby stirs up a love they imagine will bring meaning to their drifting lives; it becomes an object of romance that beckons them away from the cynical, often brutal world in which they live. Frank, a 17-year-old African-American father, waxes joyful over his six-month-old daughter, who came as a sign that he must put away childish things. "Babies don't walk, they don't talk, but they get inside you so fast. Before she was born, I was a Casanova. I didn't even know who I was with. I was hanging out all the time, doing wild things. The baby slowed me down, put the brakes on things, and made me think about my future." According to University of Pennsylvania sociologist Elijah Anderson, some mothers actually want their teenage sons to have children in the hopes that they will settle down.

The early sexual activity of these unsupervised youngsters—it's not uncommon to hear of experienced 11- and 12-year-olds—is old news by now. Rape and abuse help fuel this precocity; some estimates claim more than 60 percent of teen mothers have been victims, with stepfathers or mothers' boyfriends often implicated. But early sex is also part of the accepted mores of teens on the underclass mommy track. Christie, a 16-year-old Latino whose tidy ponytail, shorts, white socks and sneakers might lead one to look for a tennis racket rather than the month-old daughter she held in her arms, explained that she had her first sexual encounter two years earlier because she "was sick of being the only 14-year-old virgin around. I didn't really like the guy that much; I was just trying to get my friends off my back. When he started telling people, 'Oh, I had her,' I was really mad. I told everyone, 'No, I was using him.'"

Teenagers, as many can miserably recall from high school, rely on derisive name-calling to enforce conformity to their social codes. Inez, a tough, outspoken twenty-year-old from a Washington Heights Dominican family, describes how her

unconventional behavior was criticized in much the same way a black high achiever is accused of "acting white": "My sister and I are the only ones in my building who don't have babies. When I was younger, kids used to call me names. I never brought a boyfriend around, so they called me a lesbian. They told me I was conceited, that I thought I was better than everyone else, called me 'Miss Virgin.' I tried to stay off the streets." Elijah Anderson found that African-American boys reinforce the value of sex without emotional commitment by ridiculing those who look too enchanted as "househusbands" or "pussy whipped."

Marriage, as far as these kids are concerned, is gone, dead, an unword. Some observers, following William Julius Wilson, have suggested that this is because impoverished men with limited job prospects don't make likely husbands. But to listen to the kids themselves is to hear another theme—a mistrust of the opposite sex so profound that the ancient war between the sexes seems to have turned into Armageddon. Rap singers describe girls as "ho's" (whores) or "bitches," but even some of the more modest individuals I spoke with see them as tricky Calypsos scheming to entrap boys—a view sometimes reinforced by a boy's own husbandless mother. The 35-year-old mother of an 18-year-old explains that she wants him "to have his fun. I don't care who he's sleeping with. I just don't want him to be trapped." For their part, girls see boys as either feckless braggarts and momma's boys or bossy intruders. "You're cursin' at me!" mocks Stephanie, an African-American from the Bronx, when I asked her if she thought of marrying her boyfriend of two years, father of a child due this summer. "Why would I want to have some man askin' me, 'Where you goin'; what you doin'?' "

Seventeen-year-old Roberto speaks woodenly throughout our conversation as he stands dutifully next to his expectant girlfriend, who is waiting to be seen by a nurse at Methodist Hospital in Brooklyn. But when I ask if he wants to get married, it is as if I have applied an electric shock. His eyebrows shoot

upwards and his mouth drops. "Married? Not until I'm 35 or 30 at least. You get married, the trouble starts. Marriage is a big commitment." But isn't a child an even bigger commitment? Evidently not. "A baby is from the heart. Marriage is a piece of paper, it's official. I'll be responsible for my child, make sure I support him and visit him, but marriage. . . ." He shakes his head.

Stephanie plans to train to be an optician while leaving her child in the care of her mother—who, like many of these grandmothers still in their thirties, quickly shifted from anger over her daughter's pregnancy to delight over the imminent arrival of what she now calls "my baby." Like most of her sisters, when asked if she worries that a baby will get in the way of her plans, Stephanie answers emphatically, "No! Not at all!"

"I was sick of being the only 14-year-old virgin around. I didn't really like the guy that much; I was just trying to get my friends off my back."

Nurses say they hear girls dreaming of "having their own budget" courtesy of welfare. But of all the new or expectant mothers I spoke with, only one shrugged when I asked if she had any thoughts about what kind of work she might do. About their economic futures, most girls seemed more unrealistic than demoralized or lazy. With no parents watching over them and cracking the educational whip, and with little intellectual drive or ability to organize their adolescent urges, their career notions seem hopelessly dreamy. Several said they wanted to be a lawyer or an obstetrician the way a four-year-old, asked what he wants to be when he grows up, answers he wants to be an astronaut.

Teenage dreaminess unchecked by adult common sense defines never-never land as much as conformity and bravado do. Lorraine Barton, a pediatric nurse at Methodist Hospital, describes a progression noted by many others in the field: "A lot of kids, and I mean boys and girls, are thrilled

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Tina, 14, of Lynn, Massachusetts, with her mother.



Tina with classmates from the Seco

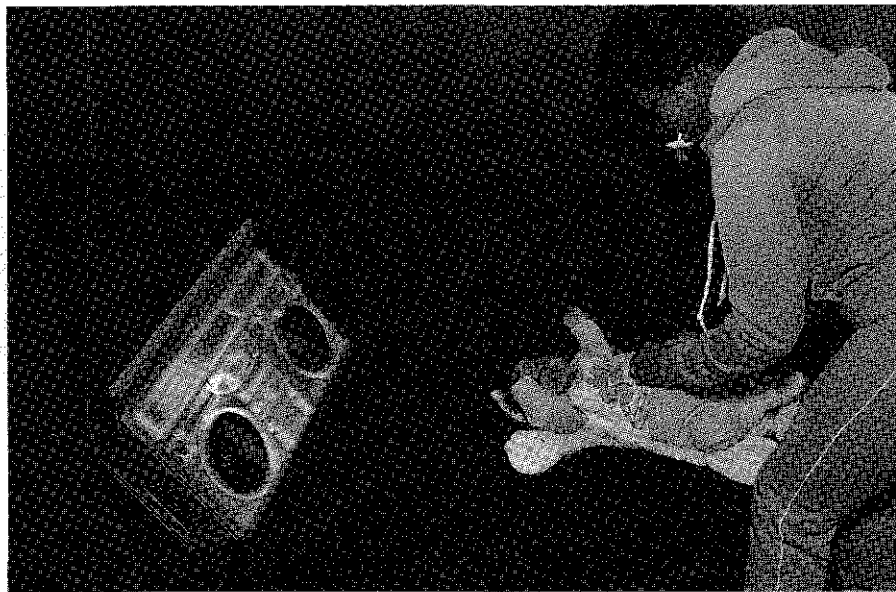
with having a baby. They love to dress them up and show them off; they like the baby carriages and all that stuff. But they don't seem to understand the baby will grow up. Around the time the baby begins to move around and be a separate person trying to go his own way, they lose interest. These are kids themselves, but they haven't had a chance to act like that. You can be sure they don't want to be chasing a toddler. It's also around this time that you see a lot of relationships end. The boys come around to visit, bring some Pampers, and later take the child for ice cream. But that's it." Even Frank, the chastened father of a six-month-old, says of his child: "I at least want to have a relationship with her. I want to know what's going on in her life." How could he envision anything more? He barely knows his own father.

The failure to understand the power of cultural norms over youngsters, especially norms that coincide so neatly with biological urges, has created a policy world that parallels but never quite touches the never-never land of underclass teenagers.

24 Dwellers in the policy world seem unable to make

the leap of sympathetic imagination needed to understand the mindset of the underclass adolescent. Instead, they assume that everyone is born internally programmed to follow the middle-class life script. If you don't follow the mainstream script, it's not because you don't have it there inside you, but because something has gotten in your way and derailed you—poverty, say, or low self-esteem, or lack of instruction in some technique such as birth control.

According to this view, to say that teen pregnancy perpetuates poverty has it backwards. Instead, writes Katha Pollit in *The Nation*, "It would be closer to the truth to say that poverty causes early and unplanned childbearing. . . . Girls with bright futures—college, jobs, travel—have abortions. It's the girls who have nothing to postpone who become mothers." But evidence contradicts the notion that early childbearing is an automatic response to poverty and dim futures. After all, birth rates of women aged 15 to 19 reached their lowest point this century during the hard times of the Depression. And in the past forty years, while the



Chance high school for pregnant girls. Tina with daughter, Desiray.

U.S. economy has risen and fallen, out-of-wedlock teen births have only gone in one direction—up, and steeply. Meanwhile, in rural states like Maine, Montana, and Idaho, the out-of-wedlock birth rate among African-Americans is low, not because there is less poverty but because traditional, mainstream norms hold sway.

A related but also flawed theory is that a lack of self-esteem caused by poverty and neglect is at the root of early pregnancy. But the responses of the girls I spoke with were characterized more by a naive adolescent optimism than by a sad humility, depression, or hopelessness. Indeed, a study commissioned by the American Association of University Women found that the group with the highest self-esteem is African-American boys, followed closely by African-American girls.

Self-esteem has a different foundation in a subculture that, unlike elite culture, values motherhood over career achievement. To listen to

some policymakers, one might think that wanting to become a lawyer or anchorwoman—and possessing the requisite orderliness, discipline, foresight, and bourgeois willingness to delay gratification—are natural instincts rather than traits developed over time through adults' prodding and example. With little sympathetic understanding of the underclass teen heart, David Ellwood, an assistant secretary of health and human services, has written: "The overwhelming proportion of

Dwellers in the policy world seem unable to make the leap of sympathetic imagination needed to understand the mindset of the underclass adolescent.

teenagers do not want children, and those who do simply cannot realize what they are in for. It is not rational to get pregnant at 17, no matter what the alternatives appear to be."

Ellwood's notion of rationality presupposes that a teenager is following the middle-class life script. This failure to understand the underclass teen's

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world view leads him to embrace another deep-seated but mistaken theory: that unwed teen childbearing is the result of inadequate sex education. "Teenage pregnancy is a matter of information, contraception, and sexual activity, all of which might plausibly be changed," he writes. Most sex education curriculums, including those that "stress abstinence," rely on the same belief in a fundamentally rational teenager. They set out to train students in "decision making skills," "planning skills," or something mysteriously called "life skills." Explain the facts, detail the process, the bulb will go on, and the kids will get their condoms ready or just say no.

These approaches are not so much wrong as irrelevant, for they ignore the qualities of mind that are a prerequisite for developing complex skills. Christie told a story whose general outline I heard more than once. "I was on birth control pills. But

Many programs for teen mothers, instead of discouraging unwed adolescent childbearing, end up smoothing it into an alternative lifestyle.

then I slept at my cousin's house and missed a day. I took two pills the next day. I guess that happened a few times. The nurse had told me I had to take them every day, but I couldn't." Birth control, Christie unwittingly reminds us, requires organization, foresight, and self-control, often at precisely those moments when passions are most insistent. These are qualities that even adolescents from privileged backgrounds, much less those untutored in the ways of bourgeois self-denial, are often still in the process of developing. Something far deeper than simple ignorance or lack of technical skill is at work here.

Governor Mario Cuomo took the fallacy of the underclass teenager with a bourgeois soul to its logical extreme when he remarked recently: "If you took a 15-year-old with a child, but put her in a clean apartment, got her a diploma, gave her the hope of a job . . . that would change everything."

26 But it takes more than a governor's decree to

transform an underclass 15-year-old into a middle-class adult. Many programs for teen mothers find it necessary to teach them not only how to interview for a job, but also how to shop for food, how to budget money, how to plan a menu, even how to brush their teeth. Programs like these point to the devilishly tricky problem of resolving the tension between the mainstream and underclass life scripts.

Moreover, instead of discouraging unwed teen pregnancy, such programs often end up smoothing it into an alternative lifestyle. If Taisha Brown does become pregnant, she will be able to leave her dull, impersonal school for a homey, nurturing middle school for pregnant girls like herself. Later, she will very likely find a high school with a nursery where she can stop by between classes and visit with her baby, attend parenting classes, receive advice about public assistance, and share experiences with other teen mothers in counseling groups. Kathleen

Sylvester of the Progressive Policy Institute, who has visited such a school in Baltimore, says it is far nicer than ordinary public schools. "It's cheerful, warm; you get hugs and lots of attention."

These programs have been introduced with the best of intentions—to ensure that teen mothers will continue their education. But because of them, it will seem to Taisha that the world around her fully endorses early motherhood.

Conservatives, most notably Charles Murray, see the roots of this normalization in Aid to Families with Dependent Children and other welfare subsidies that provide an economic incentive for illegitimacy. But even if welfare ignited the initial explosion of out-of-wedlock births in the 1960s, its role in shaping social norms today seems less vital. The Census Bureau reports that the number of children living with a never-married parent soared by more than 70 percent between 1983 and 1993. The birthrate among single women in professional and managerial jobs *tripled* during the same period. Increasingly America seems a land in which, as Mort Sahl has joked, the only people who want to get married are a few Catholic priests, and the only people who want to have babies are

lawyers nearing menopause—and impoverished children. In a world so out of whack, welfare seems only a bit player.

All of the prevailing analyses of teen childbearing, both liberal and conservative, neglect a troubling truth apparent throughout most of human history: nothing could be more natural than a 16-year-old having a baby. But in complex societies such as our own, which require not just more schooling but what the great German sociologist Norbert Elias calls a longer “civilizing process,” the 16-year-old, though physically mature, is considered an adolescent, a late-stage child, unready for parenthood. This quasi-childhood constitutes a fragile limbo between physical maturation and social or technical competence, between puberty and childbearing, one that requires careful ordering of insistent, awakening sexual urges. This century’s gallery of juvenile delinquents, gangs, hippies, and teen parents should remind us of the difficulty of this project. Even now, social workers report seeing 14- and 15-year-old wives from immigrant Albanian and Yugoslavian families coming to pregnancy clinics. The truth is that adolescent childbearing was commonplace even in the staid 1950s, when a quarter of all American women had babies before the age of twenty, though of course almost always within wedlock.

But two related social changes occurred in the late 1960s: early marriage came under suspicion, and the sexual revolution caught fire. This meant that the strategies societies generally use to control the hormonal riot of adolescence—prohibiting sex entirely and encouraging marriage within a few years of puberty—both became less workable. The “shotgun wedding” became a thing of the past. As a result, American adolescence became longer, looser, more hazardous.

Adolescents at the bottom of the socioeconomic ladder were most harshly affected by these changes. Middle-class kids have more adult eyes watching over them during this precarious period. They also

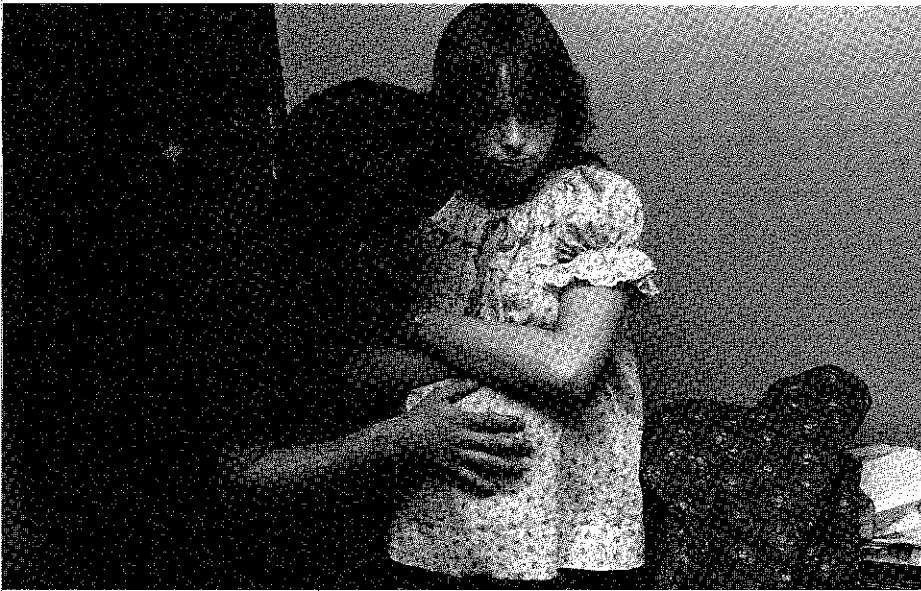
have numerous opportunities for sublimation—a useful Freudian term unfortunately banished along with its coiner from current intellectual fashion—of their urges: sports teams, church or temple groups, vacations, and camp, not to mention decent schools. Their poorer counterparts don’t get that attention. It’s much less likely that someone watches to see whom they’re hanging out with or whether they’ve done their homework. Their teachers and counselors often don’t even know their names. And “solutions” like contraceptive giveaways, decision-making-skill classes, and even abstinence training only ratify their precocious independence.

Clearly, two parents are vastly better than one at keeping the genie of adolescent pregnancy inside the bottle.

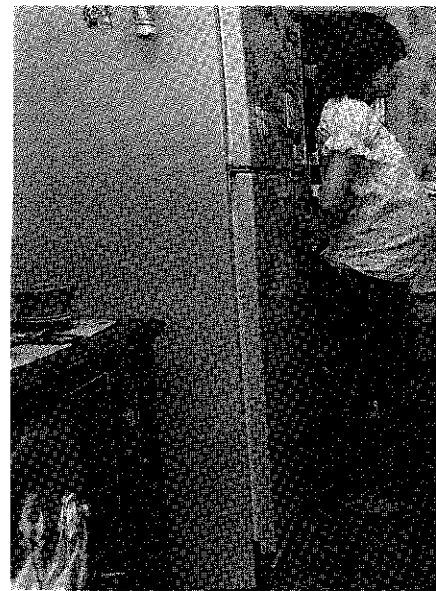
Far better would be programs that recognized and channeled the emotional demands of adolescence—intensive sports teams or drama groups, for instance, which simultaneously engage kids’ affections and offer constructive, supervised outlets for their energies. According to some teachers who work closely with pregnant teens, births go up nine months after summer and Christmas vacation—further evidence of adolescents’ profound need for structure and direction.

Given that unwed teen childbearing has become the norm for a significant subset of American society, the salient question is not why so many girls are having babies, but what prevents some of their peers from following this path? I explored that question with a group of five young black and Latino women in their twenties, all of whom had grown up in neighborhoods where the teen mommy track was common. All were college students or graduates acting as peer AIDS counselors for teens in poor areas of the city. None had children. All but one grew up with both parents; the other was the product of a strict Catholic education in Aruba. If the meeting hadn’t been arranged by the New York City Department of

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Rose, 14, of Fall River, Massachusetts, with boyfriend, Jeff, 21.



Rose with mother, niece, and two of

Health, I might have suspected a family values agenda at work.

All of these young women said their parents, in addition to loving them, watched and prodded them. "My father used to come out on the street and call me inside," Jocelyn recalls, laughing. "It was so embarrassing, I just learned to get in there before he came out." Intact families seem to provide the emotional weight needed to ballast the increasingly compelling peer group. Clearly, two parents are vastly better than one at keeping the genie of adolescent pregnancy inside the bottle.

These experiences jibe with both common sense and research. Asians, who have strong families and the lowest divorce rate of any ethnic group (3 percent), also have the lowest teen pregnancy rate (6 percent). In a longitudinal study that may be the only one of its kind, sociologist Frank Furstenberg of the University of Pennsylvania periodically followed the children of teen mothers from birth in the 1960s to as old as 21 in 1987. His findings couldn't be more dramatic: kids with close

relationships with a *residential* father or long-term stepfather simply did not follow the teenage mommy track. One out of four of the 253 mostly black Baltimoreans in the study had a baby before age 19. But *not one* who had a good relationship with a live-in father had a baby. A close relationship with a father not living at home did not help; indeed, those children were more likely to have a child before 19 than those with little or no contact with their fathers.

Some social critics, most forcefully Senator Daniel Patrick Moynihan, have insisted on the profound importance of fathers in the lives of adolescent boys. But for girls a father is just as central. Inez, one of the peer AIDS counselors, says she always bristled on hearing boys boast of their female acquaintances, "I can do her anytime," or, "I had her." Any woman who had grown up in a home with an affectionate and devoted father would be similarly disapproving. Having had a first-hand education of the heart, a girl is far less likely to be swayed by the first boy who attempts to snow her with the compliments she may never have heard



ten siblings.

Rose with baby, Jason, and sister Rhonda, 12.

from a man: "Baby, you look so good," or, "You know I love you."

The ways of love, it seems, must be learned, not from decision-making or abstinence classes, not from watching soap operas or, heaven forbid, from listening to rap music, but through the lived experience of loving and being loved. Judith S. Musick, a developmental psychologist with the Ounce of Prevention Fund, explains that through her relationship with her father, a girl "acquires her attitudes about men and, most importantly, about herself in relation to them." In other words, a girl growing up with a close father internalizes a sense of love, which sends up warning signals when a boy on the prowl begins to strut near her.

Further, a girl hesitates before replacing the attachment she has to her own father with a new love. I recently watched a girl of about 12 walking down the street with her parents. As she skipped along next to them, busily chattering, she held her father's hand and occasionally rested her head against his arm. The introduction of a serious

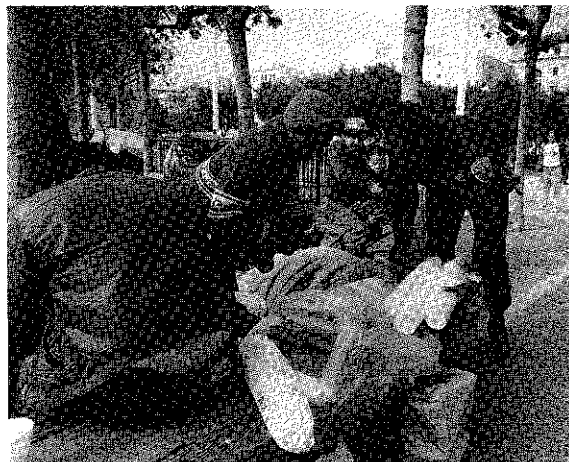
boyfriend into this family romance is unlikely to come soon. Marian Wright Edelman's aphorism has received wide currency: "The best contraceptive is a real future." It would be more accurate to say, "The best contraceptive is a real father and mother."

If it is true that fatherless girls are far more likely to begin sex early, to fall under the sway of swaggering, unreliable men, to become teen parents, and quite simply to accept single parenthood as a norm, then we are faced with a gloomy prophecy: the teen mommy track is likely to become more crowded. Nationwide, 57 percent of black children are living with a never-married mother. In many inner-city schools, like those in Central Harlem where the rate of out-of-wedlock births is 85 percent, kids with two parents are oddballs, a status youngsters don't take kindly to. When Taisha Brown has her baby, that child may eventually repeat Taisha's question: "Why do I need to worry about a father? My mother raised me just fine without one." Indeed, it seems inevitable, without a transformation of the culture that gave birth to the teen mommy track.

San Francisco Gets Tough With the Homeless

Heather Mac Donald

A cop-turned-mayor keeps his pledge to take back the streets—and teaches some important social policy lessons.



San Francisco's Matrix program targets disorder.

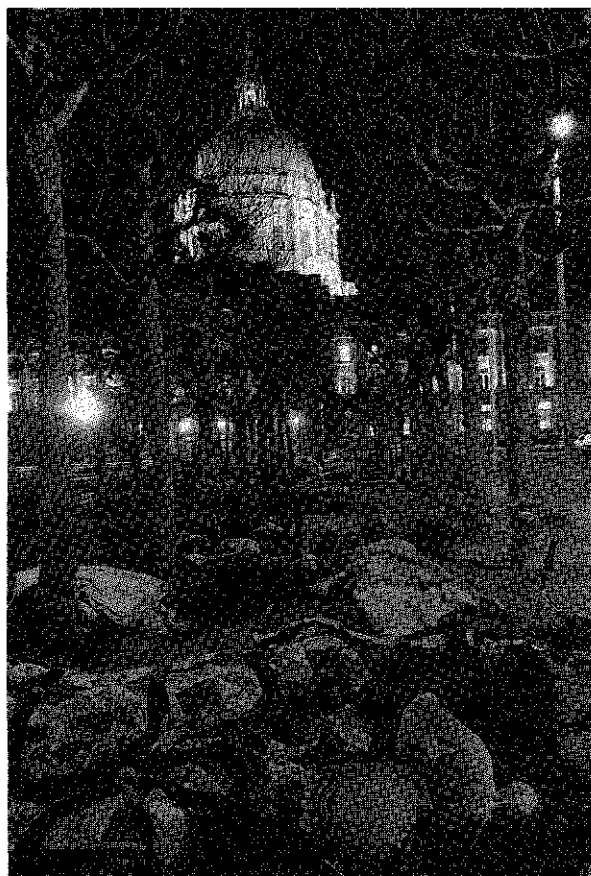
Cities across the country are engaged in a great experiment: having lost control of their public spaces, can they reclaim them?

Over the last three decades, judicial rulings and changing social attitudes stripped governments of the legal and moral authority to enforce public order. Courts struck down loitering and vagrancy statutes—traditional tools for controlling antisocial behavior and even preventing crime. Elite opinion wrapped panhandling, graffiti, and public inebriation in the protective mantle of self-expression and political protest, branding attempts to penalize such conduct as oppressive and racist.

The timing for this loss of authority could not have been worse. As the breakdown of the family, exploding drug use, and the lack of long-term care for the mentally ill brought legions of dysfunctional people into the streets, cities found they had few means left to respond to increasing disorder. The results are visible in nearly every large or medium-sized city today. Certain areas—usually public parks—have become de facto safe zones for lawlessness. Sidewalks resemble obstacle courses. Businesses located where beggars and vagrants congregate are losing customers to private malls; neighborhoods are losing residents to the suburbs.

But a revulsion at what the liberal social attitudes of the last three decades have wrought is now sweeping the country, producing some surprising turnarounds. Despite fierce criticism from civil libertarians and homeless advocates, cities that once led the campaign against bourgeois values are now leading the effort to resuscitate those values. Debate has been raging in Berkeley, California, home of the Free Speech Movement and the People's Park, over a proposed ordinance to prohibit panhandling at night, outside store entrances, near ATMs, or directed at people getting in and out of their cars. "We're losing good, loyal customers because they are afraid, intimidated, or just tired of being attacked five times between

their car and our store," says Barbara Maiss, manager of a stationery store. Opponents of the ordinance decry the "death of compassion in Berkeley." Voters will decide the issue in November.



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Civic Center Plaza, formerly a homeless encampment, has regained some of its luster thanks to Matrix.

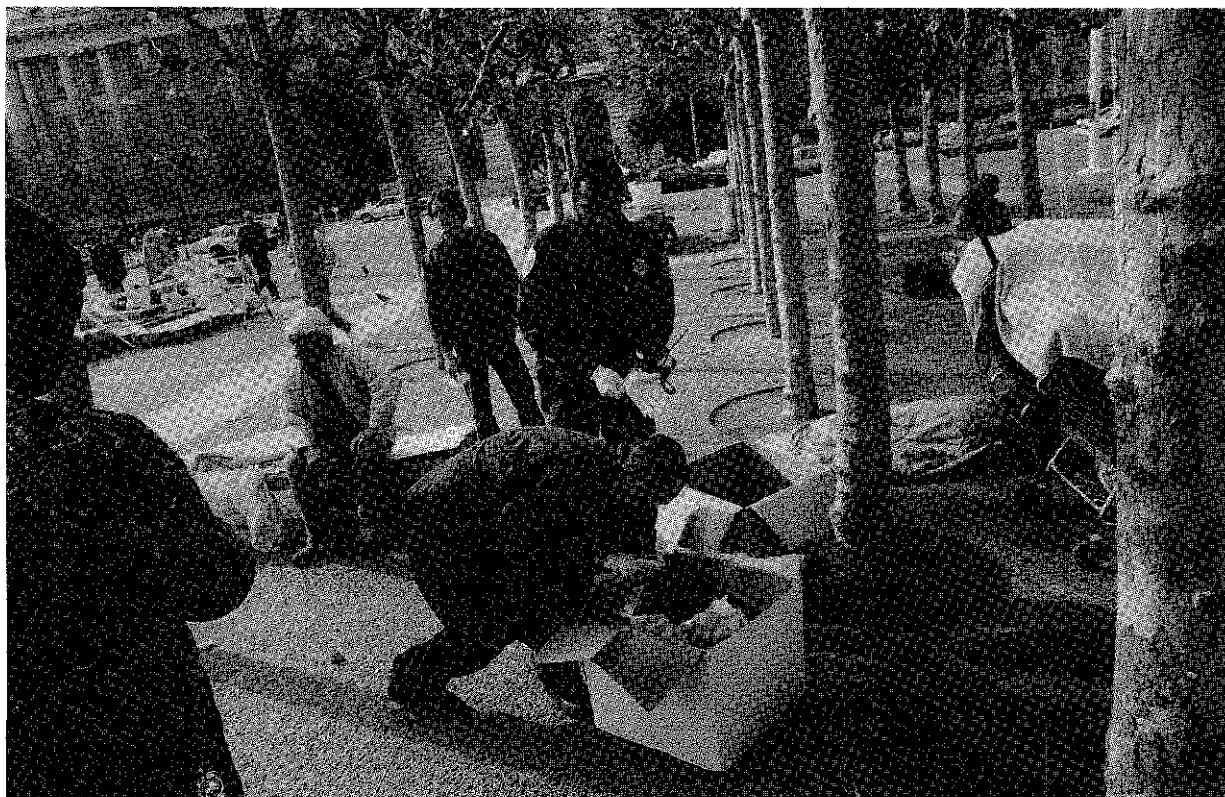
So too in Seattle. In 1980, the city decriminalized defecating and urinating in public—an outgrowth of the “do-your-own-thing, give-everyone-his-space” spirit of the 1970s, according to City Attorney Sandra Cohen. Today, Seattle has a serious hygiene problem behind buildings and in doorways; tourists complain bitterly when tour guides take them through alleys in the historic Pioneer District. In 1993, the city recriminalized public urination and defecation, prompting the Seattle Homeless Advocacy Group to proclaim urinating in doorways “a political statement that there are not enough toilets.”

More controversially, Seattle passed another ordinance in 1993, which outlaws sitting or lying on downtown sidewalks from 7 AM to 9 PM. A federal court upheld the law in March 1994; protesters, wearing T-shirts depicting the city attorney as a Nazi, have occupied the offices of city council

members and torn down signs notifying people of the law.

Santa Cruz, California, which only a few years ago outlawed “lookism”—discrimination on the basis of personal appearance—passed a “truth in begging” law in March 1994 that prohibits panhandlers from lying about their needs or the intended use of the alms, and from begging while under the influence. The law also forbids begging in front of buildings, at bus stops, while seated on or leaning against public benches or public property, or within three feet of the person solicited.

Neil Coonerty, the council member responsible for the anti-lookism law and a radical even by easygoing Santa Cruz standards, was the panhandling ordinance’s main champion. The reason: his downtown bookstore was losing business. The new law, he said, “will send a message that there are limits to



A Matrix officer covers his beat in front of City Hall.

our tolerance in Santa Cruz." Following the vote on the ordinance, someone shattered the front window of his store with a brick.

All in all, more than two dozen cities have passed laws against aggressive panhandling. The New York City Police Department is training a team of plainclothes police officers to encourage the homeless to move to shelters; Cincinnati has removed the public benches used by beggars; Atlanta prohibits loitering in abandoned buildings or entering a parking lot without reclaiming a car; and half a dozen cities with large homeless encampments have tried, with mixed legal results, to enforce laws against camping in public spaces.

No city, however, has waged the campaign to reclaim the streets more vigorously than San Francisco, and nowhere has the effort yielded more significant results. For in its twin efforts to restore order and help the homeless get off the street, San Francisco is discovering what many social workers have secretly known for years: you can lead the

homeless to housing and services, but you can't guarantee they will use them. Increasing the resources available to the homeless without also penalizing the failure to use them may have only a marginal effect on the condition of the streets. This discovery has profound implications for the Clinton administration's homeless policy, which has made record spending on housing and services its centerpiece.

San Francisco's fairy-tale setting belies an often nightmarish street scene. The city's generous welfare policies and limitless tolerance have drawn an army of vagrants, addicts, and hippie wannabes eager to recreate the Summer of Love. Until recently, wildly gesticulating men routinely hounded pedestrians; petty scam artists accosted tourists waiting for the cable car at Powell Street. For many business owners, opening shop in the morning meant waking the vagrant in the doorway and cleaning up leftover food and human waste.

The Transbay Terminal, a heavily used commuter

San Francisco Gets Tough with the Homeless

hub, doubled at night as a de facto psychiatric ward and crack den for two to four hundred transients. In June 1993, state police reported 203 crimes at the terminal, including homicide, attempted rape, kidnapping, and robbery. Amtrak pulled out of its lease after a fatal shooting in August 1993.

The symbolic center of San Francisco's homeless problem, however, was Civic Center Plaza, a large open space in front of City Hall. A shantytown of lean-tos, tents, mattresses, and couches in the center of the plaza housed hundreds of men and women. Dubbed "Camp Agnos" in mockery of former mayor Art Agnos's failed social policies, the encampment was a breeding ground for crime. People ascending the urine-soaked stairs of the parking lot underneath the plaza were greeted by the sight of prostitutes earning their pay in broad daylight and junkies shooting up heroin. Maintenance workers had to clean up around the residents or fight with them to move.

For years, San Francisco tried, and failed, to solve its homeless problem with money and services. In addition to its \$55 million General Assistance budget—a welfare grant for able-bodied men and women without young children—the city spends \$50 million a year on homeless services. It funds 4,155 beds in a dozen shelters, alcohol treatment programs, free health and dental care, housing grants, feeding centers, and an array of other services for a homeless population estimated at between three and six thousand.

The indirect costs of homelessness dwarfed even these hefty direct costs. An April 1992 study attributed to the homeless a \$173 million drain in retail and restaurant sales in the city. The San Francisco Convention and Visitors Bureau used to receive constant complaints about harassment from tourists; a city whose largest industry is tourism—\$4 billion annually—takes such complaints very seriously. Some of the city's regular convention clients began to consider a change of venue.

Seething frustration with San Francisco's declining

quality of life produced the upset victory of former police chief Frank Jordan over Mayor Art Agnos in 1991—the first time an incumbent had been unseated since 1943. Jordan had promised to crack down on panhandling and to put the homeless in work camps. For many, San Francisco's embrace of a tough cop over a former social worker symbolized a revolution in the city's political culture.

Early in his term, though, Jordan seemed to abandon his original goals. Rather than moving aggressively against street crime, he spoke of addressing "root causes" and avoiding "punitive measures." His popularity plummeted amidst the widespread perception that his administration had lost its focus. But in 1992, Jordan showed that he had not forgotten why he was elected, by proposing a ballot initiative against aggressive panhandling. The measure passed by a 10-point margin, over the opposition of the leftist Board of Supervisors (San Francisco's equivalent of a city council) and every liberal group in the city.

Hours after the initiative passed, police officer Steven Murphy was stabbed by a beggar who had hounded him for money and had just slashed his truck tire. "This is the kind of stuff that happens when the police are not allowed to do their job," warned Murphy, after four hours of surgery for a severed artery in his arm.

As if taking this admonition to heart, the next August Mayor Jordan announced Matrix—a month-long program for enforcing in the downtown area 18 city and state ordinances that had fallen into disuse. Designed to ensure order in public places, they covered offenses such as public drunkenness, public urination and defecation, trespassing, street sales of narcotics, dumping of refuse, graffiti vandalism, camping and lodging in public parks, and obstructing sidewalks. Teams of 12 to 18 officers made regular tours through the Civic Center Plaza, a four-block stretch of Market Street, and Union Square—a once-posh shopping district that had succumbed to urban squalor.

Matrix represented a major law-enforcement **33**

Portland, Oregon, Reaches the Limits of Kindness

Critics of San Francisco's tough approach to street disorder argue that the only effective long-term solution is to address the "root causes" of homelessness: society must provide more and better housing and social services.

This debate need not be carried out in the realm of theory. One city stands out as an exemplar of everything homeless activists have ever asked for. Portland, Oregon, has a comprehensive plan for responding to homelessness, shelter for all, extensive drug rehab programs, and clean and sober housing. It eschews punitive measures against disorderly conduct. Yet despite the best efforts of all, and some notable successes in the area of alcohol treatment, Portland's homelessness problem shows no signs of abating.

In the early 1980s, Portland concluded that law enforcement for quality-of-life offenses was futile. Instead, the city assembled its business leaders, homeless service providers, advocates, and government officials to craft a nonpunitive approach to homelessness. The task force produced a 12-point plan, adopted in February 1986, that sets out the city's "core values" regarding homelessness and the responses necessary to realize them.

The most consequential value is that "no one incapacitated by alcohol or drugs should be left untreated on the streets of Portland." This commitment gave rise to the Person Down program. Anyone "down" on the street from a drug or alcohol overdose is immediately picked up by medical person-

nel in a special van and taken to the city's detox center. From there, he can enter a variety of treatment programs leading to drug-free housing and job training.

As a result, the number of late-stage chronic alcoholics on city streets has declined from two thousand to two hundred over the past decade, according to Richard Harris, director of housing and chemical dependency services at Central City Concern, an SRO provider. Between 50 and 72 percent of the formerly homeless in Harris's several drug rehab programs have graduated clean and sober.

But although alcoholics may be largely gone downtown, they have been replaced by drug dealers. And despite the cooperation of the entire community, Portland's 12-point plan has yet to produce a significant reduction in homelessness. It may no longer be necessary to step over beggars to get into a restaurant, but the park on the waterfront is packed with vagrants. Many Portland residents have concluded that nothing will ever stem the flood of panhandlers and bums.

Portland points proudly to the fact that no one need sleep outdoors in the city, due to its efforts to expand and improve its shelter capacity. That doesn't mean that people *don't* sleep outdoors, however. But consistent with the city's non-punitive philosophy, responding to unauthorized camping is largely left to non-coercive community initiative: citizen patrols put up signs in their neighborhoods asking people not to camp out. According to

change. "Before, when the police arrested the homeless, they came under political criticism," says police Commander Dennis Martel, who heads the enforcement effort. "When you're getting whacked, you stop doing things. Our officers backed off, and the problems only got worse." But the public response

to Matrix was jubilant. Seventy-five percent of the calls to the mayor's communications office were favorable, expressing such sentiments as, "I hope [Jordan] doesn't back down from pressure from the liberals," and "It's about time something was done; keep it up!"

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Wayne Pearson, a Portland district attorney, the homeless tear down the signs and sleep on public or private property anyway. Yet Pearson claims that "community satisfaction [with the citizen patrol program] is rather high." The homeless are "nice people," he adds. "They don't want to be where others don't want them to be," Pearson admits, however, that "parts of Portland have a different view of this. They say that defecating in public is not a right."

The failure of Portland's efforts is putting strains on the original coalition behind the 12-point plan. The business community is starting to ask how much more the city will have to spend to solve homelessness. And several years ago, when the city's commissioner of housing and community development lifted a cap on the number of downtown shelter beds, she upset a carefully crafted agreement that had been the basis for business support of Portland's generous homeless policies.

The seemingly endless demand for new social service facilities is also taking its toll on residential communities. Many people are starting to rebel against the placement of drug rehab programs and shelters in their midst, as well as the arguably excessive cost of such facilities. Their voices, however, do not receive a sympathetic hearing from the Bureau of Housing and Community Development, which views such complaints as discriminatory. All in all, Portland's problems are looking more and more like those of other cities.

On September 1, Jordan announced that the program would be extended for another month and would include the Mission District south of Market Street. Just a week later, however, in response to public demand, the police declared that Matrix would become part of regular law enforcement city-

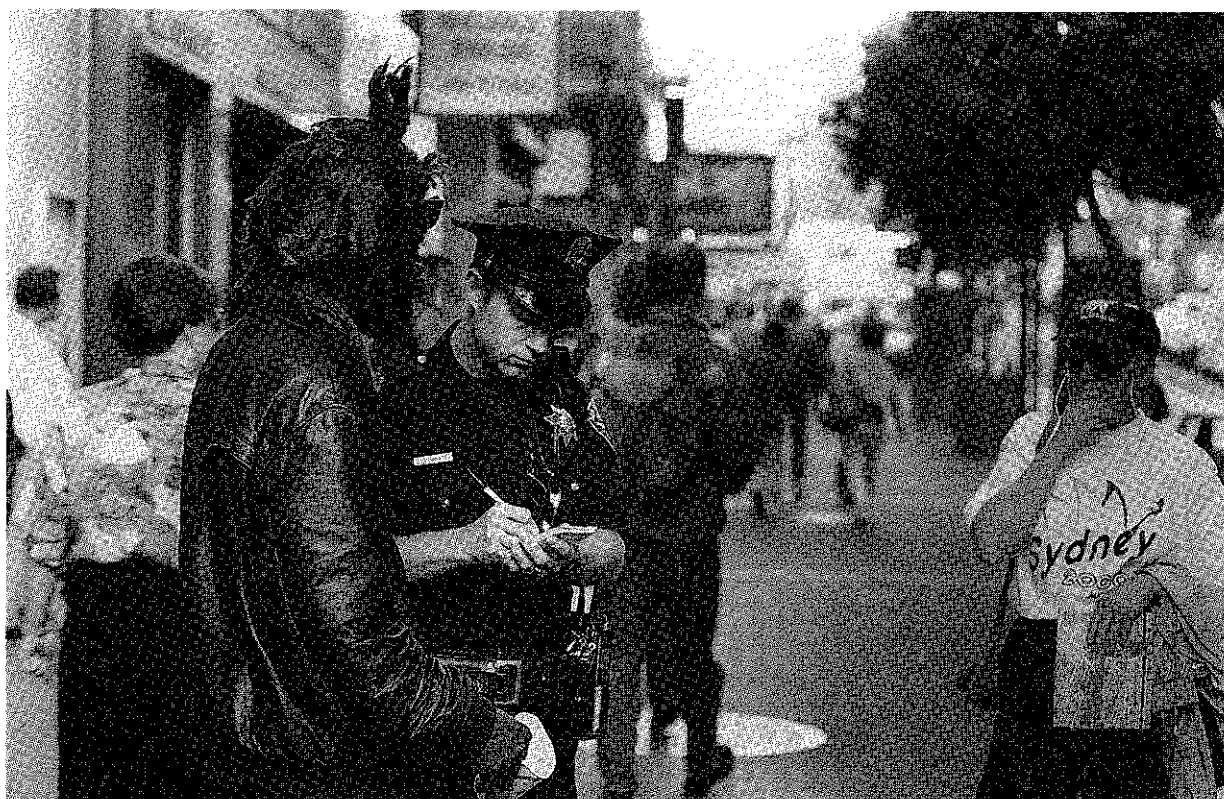
wide. Officers in each of San Francisco's ten police districts drew up plans to integrate the program into their beats.

The Matrix enforcement effort unfolded like a military campaign, retaking the city block by block. Every ten days or so, Matrix teams would announce a sweep of an additional area, chosen on the basis of citizen complaints. Cleaning up Civic Center Plaza took ten intensive days in January 1994. The effort yielded an additional benefit: police uncovered a Honduran drug ring based in Oakland that had used the Civic Center homeless as runners and stored cocaine in their shopping carts. Forty-six people were arrested for drug or weapons possession.

Homeless advocates have furiously opposed Matrix from the start. But the elimination of a large encampment in Golden Gate Park—a wild green refuge in the center of the city—especially fanned their ire. For years the encampment had rendered one end of the park off limits to normal use. The city concluded that the settlement had to be bulldozed to clear away heaps of hazardous debris. "I walked in myself and almost threw up," said head gardener Jon Hutter. "There was no way I would send my people into that area."

The police warned the inhabitants and offered assistance in moving out. When the bulldozers arrived, only three people still had their belongings in the park. But the bulldozing provoked a barrage of charges from activists and the Board of Supervisors that the city had not given adequate notice. The supervisors threatened to cut the Recreation and Parks Department budget. With characteristic feistiness, Jordan refused to apologize for either the means or the timing of the clean-up. "If the encampments are depositories of human feces, rain-soaked garbage and trash, discarded needles, and other disgusting waste, we will not hesitate to use extraordinary measures to clean up the mess. I won't expose city workers to health risks under any circumstances."

Two months after Matrix began, Jordan broad-



Matrix officers cite street people only for specific unlawful behavior like aggressive panhandling.

ened its mission to include social-service outreach. A team of two social workers, two mental-health workers, a substance-abuse specialist, and two police officers now roams the city, trying to coax the homeless into shelters, housing programs, or treatment for addiction or mental illness. Some speculate that Jordan expanded Matrix as insurance against a legal challenge: in Miami and in Santa Ana, California, courts had enjoined local efforts to break up homeless encampments on the ground that the city governments were not doing enough to help the homeless. Whatever the motivation, expanding Matrix made political sense in a city still deeply divided over the program.

Not that the outreach efforts have placated Jordan's foes, who charge that the social-service teams are mere window dressing for police repression. But the members of the teams themselves see helping the homeless and reviving a code of civil behavior as complementary goals. "The outreach effort separates the victims from the volunteers," says social worker Jerry Bibelheimer. "We're trying to establish

some accountability and force folks to do something with their lives, to the extent they understand they're in trouble." Bibelheimer believes that including police on the outreach teams increases the teams' effectiveness: "Though the cops are humanitarian for the most part and will bend over backwards to help, the fact that they're there causes people to say, 'Maybe I should look into this.' It's kind of coercive, but necessary."

As the police extended their efforts through the Market District, the Castro, and the Van Ness and Polk Street corridors, Matrix's critics charged that the program was merely driving the homeless and their attendant problems deeper into the city. The neighboring cities of Berkeley and Oakland complained of an influx of San Francisco's homeless.

But Matrix has reduced, not just shuffled around, both violent crime and quality-of-life offenses. In the first five months of the enforcement efforts, serious crime dropped 25 percent. If some of that drop resulted from "displacement" to localities with

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less law enforcement, that certainly doesn't invalidate the program.

Both homeless advocates and the press have criticized the small number of actual arrests and convictions as proof that the program is a waste of police resources. Most of the 16,000 police contacts under Matrix have entailed citing people and moving them along. But sending people to jail is not the point, says Jim Buick, director of Matrix in the Department of Social Services. Just admonishing people for quality-of-life offenses—as cops, up to a generation ago, had always done—conveys that antisocial behavior will no longer be tolerated.

Homeless advocates claim that Matrix penalizes the "status" of homelessness. But citations are given only for specific unlawful behavior, and, according to Commander Martel, less than 6 percent of citations have been for lodging or camping. Ten percent of police contacts have been for major felonies; the vast majority of citations are for public drunkenness and drug offenses.

Matrix has gone far toward returning order to public space. Though it would be a vast overstatement to say that people are no longer living in the streets in San Francisco, the appearance of the city has changed markedly. Before, two hundred people lived in front of City Hall; today, only a handful remain. The grass in the plaza has been resodded, the sidewalks steam-cleaned, the fountain—for years an open-air garbage pit—is flowing again. Pedestrians throughout the city face far less harassment than before the program began.

Matrix has also changed Jordan's political fortunes. *San Francisco Chronicle* columnist Herb Caen predicts that the program will reelect the mayor. A grassroots group collected donations of \$15 and \$20 to erect a billboard proclaiming: "Matrix works." The Chamber of Commerce

and the tourist industry, both ecstatic, report a major drop in quality-of-life complaints. Convention planners have kept the city on their lists.

Ironically, Matrix has made life safer for the homeless who remain on the streets. Joseph Mitchell was one of the holdouts who remained in Civic Center Plaza after the January sweep. "It was very ugly when I first came here," he told the *Chronicle* in February. "At least now, you don't have to worry about being stabbed or your stuff stolen." Homeless deaths dropped 27 percent in 1993.

San Francisco's diehard activists ignore such figures. Calling life under Matrix a "police state," Angela Alioto, president of the Board of Supervisors and a likely challenger of Mayor Jordan, introduced a measure to grant amnesty for homeless people cited under the program. The measure went nowhere.

A protest campaign, however, is thriving. The radical group Food Not Bombs regularly holds feeding sessions in front of City Hall in violation of the law; an interfaith coalition has been staging sleep-outs at Civic Center Plaza and Union Square. These



Businesses hit by disorder have strongly backed Matrix.

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sleep-outs have been quite a hit throughout the Bay Area: one minister came up the peninsula from Palo Alto, as, in his words, "an act of solidarity with homeless people—to share for one night what they live every night." A resolution signed by six hundred members of the clergy in January claimed that Matrix has "led to new levels of inhumanity and heartlessness toward homeless people."

The religious protests may have worked in Jordan's favor. Protesters have been arrested under the same anticamping laws as the homeless, buttressing Jordan's point that Matrix is not an antihome-

The results of Matrix's law enforcement component suggest that a city can successfully rededicate its police to maintaining public order.

less initiative per se. The high-blown, romanticized rhetoric of the protesters acts as a foil to Jordan's unblinkered view of the streets. After one of the many sleep-outs, Jordan announced: "If [the protesting clergy] think this mayor will allow trespassing, obstructing, assault, intimidation, aggressive panhandling, selling drugs from shopping carts, and other crimes to be committed under the guise of homelessness, they are very much mistaken."

Naturally, homeless advocates and civil liberties lawyers turned to the courts. In March 1994, Matrix survived the first round of a legal challenge by the Coalition on Homelessness, the Lawyers' Committee for Civil Rights, and the ACLU, who sought to enjoin the enforcement of camping and lodging ordinances against the homeless. In refusing the plaintiffs a preliminary injunction, federal District Judge D. Lowell Jensen declined to immunize the homeless from criminal laws. He rejected the argument that homelessness is an involuntary "status" whose attributes, such as sleeping in public, cannot be penalized. To accept that claim, said Jensen, would be "to deny the efficacy of acts of social intervention to change the condition of those currently homeless."

themselves belied their lawyers' claim that San Francisco offered the homeless no alternative to the streets. One plaintiff had turned down an offer of housing from his daughter, as well as a specially discounted SRO in a well-run city program. He also refuses shelters, saying, "These people that you're laying next to—they're not saints. They're all homeless." Two other plaintiffs actually had a place to live.

The results of Matrix's law enforcement component suggest that a city can successfully rededicate its police to maintaining public order. But the social-service outreach component holds some gloomier lessons for homelessness policy. The city's efforts to place people in shelter and housing have proved disappointing. In the first two months of Matrix's Night Shelter Referral Program, police and outreach teams offered homeless men 3,820 vouchers for a church shelter. (There is also a women's program.) Less than half accepted the vouchers, and only 678 actually used them.

More telling has been the disappointing result of San Francisco's attempt to link welfare subsidies with housing. San Francisco offers the most generous General Assistance (GA) grant in the state—a \$345 per month payment intended to keep poor people from having to live on the streets. But of the 15,000 GA recipients, 3,000 claim they are homeless. Moreover, 65 to 70 percent of people in emergency shelters receive welfare or disability payments that would be adequate to pay rent. (The rest are illegal aliens.) As for those living on the streets, 60 percent acknowledge receiving benefits which could be applied to housing—though the actual number receiving benefits is undoubtedly higher. The city, state, and federal governments are therefore paying twice for this homeless welfare population—once in the form of a GA, AFDC, or Supplemental Security Income check, and again in the form of emergency shelters and services.

To remedy this problem, San Francisco began a voluntary program in which GA recipients can turn over their check to a nonprofit group, which

arranges for a discounted room in an SRO. The recipient receives the remainder of his check, approximately \$65, in cash. Only seven hundred GA recipients—less than one in four of the beneficiaries claiming homelessness—have enrolled.

Expanding participation in this program has been a major objective of Matrix. From October 1993 to mid-June 1994, Matrix workers approached some three thousand people and succeeded in getting 771 to listen to their pitch for the SRO payments plan. (The others were either totally unresponsive or in need of immediate detoxification or emergency mental health care.) Merely for agreeing to think about the program, a street person is immediately given free lodgings in a designated hotel until his next benefit check arrives. Of the 771 people referred to the hotel, 555 checked in. Of those, only 160 followed through and secured permanent housing; not all of those have remained housed. The others "had trouble making it work," according to one outreach worker, politely referring to the various social pathologies that interfere with maintaining tenancy.

These figures render moot the perennial debate in San Francisco over whether the city is providing enough beds for the homeless. Though advocates claim that 14,000 people a month are turned away from local shelters for lack of space, a local TV station, KRON, investigated the advocates' numbers and discovered that in fact some 115 people are turned away from city shelters nightly. Yet there are an additional thousand SRO rooms available through the GA payment program that go empty each night for lack of takers.

The unredeemed shelter vouchers and empty SRO beds cause a considerable problem for the advocates. Walter Park, the housing activist responsible for the 14,000-a-month turn-away figure, claims that the money remaining after rent is deducted under the program is not enough to live on. But program participants themselves give the lie to that allegation. Brian Russell, a young SRO occupant, told KRON that "I get all my needs taken care of" through the program. According to one street

dweller, "you can eat all day long" in San Francisco's many feeding programs. GA recipients also receive up to \$105 in food stamps and get free medical and dental care.

Advocates' usual explanation for the vacant housing is that it is substandard. Paul Boden, head of the Coalition on Homelessness and San Francisco's most vociferous homeless activist, claims that if the city enforced its building codes, no one would live on the streets. Yet the city does in fact enforce its codes for SROs in the GA program—inspecting them monthly, rather than once every three years, as is normal for other hotels. A typical room in the program is clean and contains adequate furniture, a wash basin, and carpeting. In addition, the non-profit organizer of the program places ombudsmen on each site to mediate tenant disputes.

The main problem with Boden's argument, however, is its assumption that people have a right to live in the streets if they are dissatisfied with their housing. Though the causes of homelessness are many and include economic as well as social factors, homelessness on today's scale could not have occurred without the sea-change in attitudes that made it possible to live on the streets without stigma or interference. As outreach workers across the country are discovering, given the choice between a treatment program or run-down SRO on the one hand and the street on the other, many addicts and winos prefer the street, where they can hang out and hustle for change.

Providing more housing, drug treatment, and mental health care will be unavailing unless society no longer allows the use of those resources to be optional. Welfare benefits should therefore be conditioned on production of a rent receipt. Even in San Francisco, however, such a requirement is hotly contested. Though some of Jordan's most influential advisors advocate making the SRO payments plan mandatory, others in his administration argue that there are not yet enough rooms available that are up to code. Resistance is even stronger outside City Hall. The nonprofit organization that is Jordan's partner in the SRO program but otherwise

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his ideological foe argues that making its own program mandatory would violate civil liberties. But the momentum of reform seems strong enough that such objections will eventually lose their force.

New York City offers higher Home Relief benefits (the equivalent of General Assistance) to those with proof of rent payment—\$352 a month, versus \$201 for those who cannot verify rent. Surely New York—and all cities—would do better to tie the full amount of their welfare grants to rent.

Funding additional housing and services is in many cases irrelevant to achieving greater civility in the streets. Matrix, though it has placed few people in permanent housing, has made an enormous difference in San Francisco, suggesting that merely enforcing long-standing norms of public conduct may be far more effective in reducing disorder than

The Clinton administration would have profited by studying San Francisco before it announced its record homelessness spending program earlier this year.

any number of social programs. Additional spending on unproven programs should not be a precondition to law enforcement, though unfortunately judicial decisions in Miami and Santa Ana have mandated just such a quid pro quo.

The one service that many street people unequivocally need is the service that receives the least attention: long-term mental health care. San Francisco's psychiatric emergency room is overflowing. Though the law permits a 72-hour hold for people deemed a danger to themselves or others, hospital workers try to get patients out sooner in order to free up beds. Jim Buick of the Department of Social Services describes a situation that is being replicated in cities across the nation: "People go in absolutely nuts, get medicated, and are put out on the street again." Many soon return, and the cycle continues.

studying San Francisco before it announced its record homelessness spending program earlier this year. The administration proposes spending \$2.2 billion on housing and services in 1995—double the 1993 level and more than four times that of 1987—nonwithstanding that, as Clinton himself acknowledged, "these [earlier] responses do not appear to have substantially reduced the number of people with no place to call home." Indeed, some drug and alcohol treatment providers have concluded that they are merely "enabling" self-destructive behavior. The more humane and comprehensive a treatment program is, the more it insulates the "client" from the consequences of his conduct—consequences that once served as a powerful deterrent.

In San Francisco, Mayor Jordan's reform efforts continue apace. In November 1993, a ballot measure requiring fingerprinting and a 15-day waiting period for GA benefits won 62 percent of the vote, drawing strong support in minority neighborhoods. Previously, a consent decree required the city to start providing GA benefits on the day of request to anyone who declared an intention to become a resident. Not surprisingly, this requirement had acted as a powerful magnet. The ballot initiative also increased the penalty for violations of GA rules from a 15- to a 30-day suspension of benefits. In six months, the fingerprinting program saved \$250,000 to \$300,000; 160 people who refused to be fingerprinted lost their GA benefits.

In June 1994, voters ignored the opposition of the Board of Supervisors and passed a Jordan-sponsored initiative to outlaw panhandling within a thirty-foot radius of ATMs. Any non-bank users who linger more than one minute inside the thirty-foot zone face jail time and a fine of up to \$100.

San Francisco is both a symbol of the past and the wave of the future. Pursuing freedom, it got chaos. It is now rediscovering that liberty consists not in overturning social rules but in mutual adherence to them. In time, more and more cities will reach that inescapable conclusion.

Punishment and Personhood

Clarence Thomas

W

hat are the real-world effects of the "rights revolution"—the legal revolution of the past thirty or so years in creating

and expanding individual rights? What are its consequences for the well-being of our inner cities? Would the lawyers and judges making these rules want to live under the conditions that so many in the inner cities must endure? And do the answers to these questions suggest a moral basis for a restrained judiciary that proponents of the rights revolution have neglected to consider?

As part of this revolution, our courts have held that government could not suspend students from public schools or evict tenants from public housing without hearings and other procedures designed to ensure fairness, individual dignity, and a sense that justice has been done. The idea was that, for the poor and minorities, government benefits were forms of property that guaranteed well-being. Many, therefore, argued that to expose these benefits to arbitrary and unregulated state power would rob the underrepresented in our society of their one source of dignity and personal security.

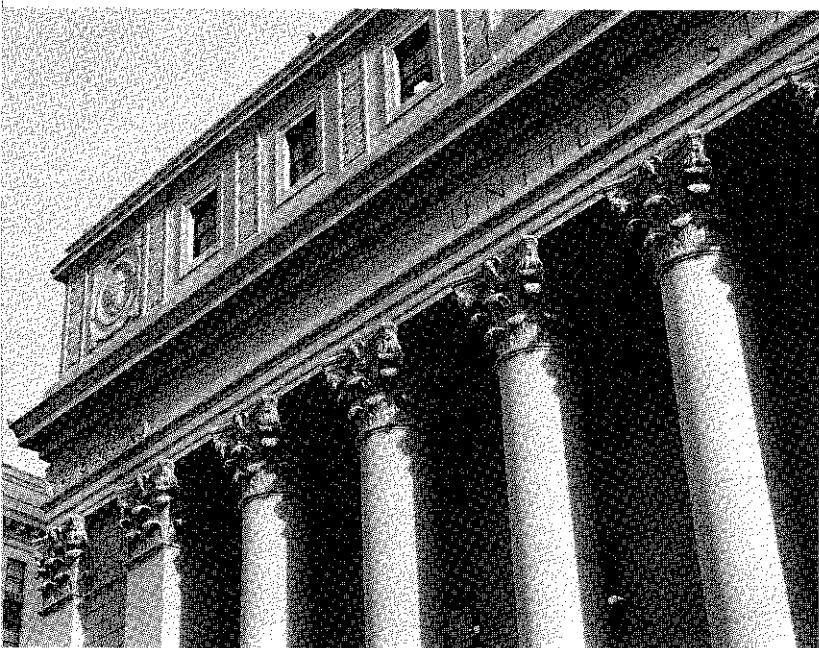
In the same vein, vagrancy, loitering, and panhandling laws came under challenge because the poor and minorities could be victims of discrimination if the police had broad discretion to ensure public safety. Moreover, as a consequence of the modern tendency to challenge society's authority to shape social norms, the legal system began to prefer the ideal of self-expression, without much attention to the ideal of self-control. What resulted was a legal culture that declined to curb the excesses of self-indulgence: vagrants and others who regularly roamed the streets had rights that could not be circumscribed by the community's sense of decency or decorum.

But look at the result. Providing extensive hearing rights for the student who carries drugs or weapons to school, or for the drug



America's legal system has forgotten that equality also means holding people equally responsible.

Photographs by Andrew Bordwin



pusher or gang member who occupies public housing, is more than a mere abstraction. These decisions have incredibly significant effects on the ability of school principals and tenant organizations to enforce standards of decency and conduct, and they also have an enormous impact on the opportunities available to a community in solving the problems that plague the poorest of our citizens.

Young children cannot learn in school if they are besieged by drugs and violence. They cannot lead normal lives if so many street corners, sandlots, and apartment buildings are fixed places of business for drug dealers and other criminals. How can their parents or older brothers and sisters lead productive lives if rampant community violence and disorder stifle economic and educational opportunity? If they can't walk or drive down a street without fear of being shot or assaulted? There can be no hope for the future without serious legal and policy debate on these questions.

I want to address in some detail one further aspect of the rights revolution that has equally profound consequences for our inner cities—namely, how the current state of our criminal justice system has affected the ideal of personal responsibility. I am convinced that there can be no freedom and no opportunity for many if our criminal law loses

sight of the importance of individual responsibility. Indeed, the principal purpose of a criminal justice system is to hold people accountable for the consequences of their actions, to hold people's feet to the fire when they do something harmful to individuals or society as a whole.

The chief reason we hold people accountable is this: the law cannot persuade where it cannot punish. As Alexander Hamilton said, "It is essential to the idea of a law that it be attended with a sanction . . . a punishment for disobedience." Most of us are regularly faced with the deterrent effect of the law, the incentive not to engage

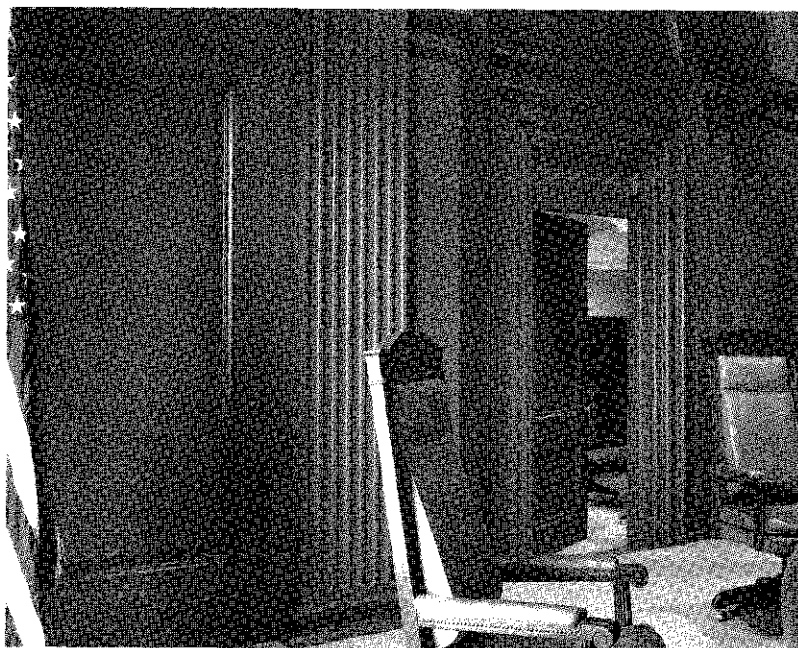
in conduct that might harm others. To be sure, we choose to honor speed limits because such behavior might well save our own lives, but we just as surely follow the rules because of the legal consequences of speeding—fines and possible loss of license. In a similar vein, a company might benevolently refrain from polluting a neighboring river to avoid harming others who rely on its clean water for drinking and recreation. Clearly, though, stiff fines give the company a tangible incentive to avoid such conduct. As Saint Thomas Aquinas said, "It is not always through the perfect goodness of virtue that one obeys the law, but sometimes it is through fear of punishment."

Some underscore a different aspect of human nature in explaining why holding people responsible is central to our criminal justice system. Unlike any other creature, humans are moral, rational beings. We expect one another to be able to distinguish right from wrong and to act accordingly. Thus, when society punishes someone for breaking the law—when it holds him accountable for the consequences of his acts—we are recognizing that only mankind is capable of being moral or rational. We are acknowledging the human dignity of our fellow man. Indeed, people thrive in our society because of the expectations we all have regarding the capacity of the human will to do good. To dis-

regard this potential—as we do when we ignore the fact that someone has harmed others by breaking the law—treats our fellow man as a being incapable of determining right from wrong and controlling his behavior. Ultimately, our hopes for the future of society can be no brighter than the expectations we have regarding the conduct of its individual citizens.

There are others who believe that the principal reason we hold people responsible is because of our mutual political or social obligations in a civilized, democratic society. In accepting and benefiting from the opportunities of our free society, we each consent to be bound by its rules and expect government to enforce them. When someone breaks the law, he violates a fundamental trust. In effect, the law-breaker is telling all of us that there can be no mutual expectation that society's rules—which protect all of us—will be followed. On this view, we punish the criminal because he owes a debt to society for violating our trust. To do otherwise would cheat those who abide by the law and dilute the threat of force that the law is supposed to convey. If our government failed to remedy wrongs by holding people responsible for their acts, we would be faced with the prospect of vigilante justice and all its accompanying evils.

The criminal law serves a signaling function when we hold people accountable for their harmful acts. Punishing people is an expression of society's resolve that certain behavior will not be tolerated because it hurts others, is counterproductive, or is offensive to the sensibilities of our culture. In the absence of such a signal—if government does not punish harmful conduct—we send a dangerous message to society: we end up sanctioning harmful behavior. What are we telling students who are trying hard to do well in school and to avoid drugs, or the upstanding public housing tenant who respects others' property and well-being, when our law fails to express outrage at those who do wrong?



One must wonder, though, whether our system of criminal law is carrying out this vital signaling function. Why are so many of our streets rife with drug bazaars and other criminal enterprises? Why are so many of our schools devoid of the discipline that is necessary for a healthy learning environment and instead plagued by lawlessness? Why is there an unprecedented fear of violence—or just a plain unwillingness to cultivate neighborhood unity and spirit—among so many of our fellow citizens?

One reason, I believe, is that the rights revolution worked a fundamental transformation in our criminal law. The very same ideas that prompted the judicial revolution in due process rights for the poor, and that circumscribed the authority of local communities to set standards for decorum and civility on the streets or in the public schools, also made it far more difficult for the criminal justice system to hold people responsible for the consequences of their harmful acts. I want to focus on one particular force behind the rights revolution, one that in my view had the most profound effect on the direction of the criminal law: namely, the idea that our society had failed to safeguard the interests of minorities, the poor, and other groups; and, as a consequence, was primarily at fault for their plight.

Punishment and Personhood

Much of the judicial revolution in individual rights was justified on the ground that the dignity and well-being of large segments of our population—minorities, the poor, women—were consistently ignored by our social and political institutions. As the victims of centuries of discrimination and oppression, blacks and other minorities could not enjoy the full benefits and opportunities that society had to offer. So too were the poor viewed as victims—uncontrollable forces contributed to their poverty, and their “stake” in welfare and other public benefits was not insulated from unregulated state power in the same way that the property interests of the more fortunate were.

Many began questioning whether the poor and minorities could be blamed for the crimes they committed.

These concerns greatly influenced our courts, which required that government hold hearings and comply with elaborate procedural requirements before terminating public benefits. The view was that these entitlements were worth protecting because they aided the poor and underrepresented in achieving security and well-being.

Procedural protections were also viewed as necessary to ensure that government interference with public benefits was not arbitrary and unfair. Because minority and disadvantaged students are the most frequent objects of school discipline, for example, advocates of greater constitutional protections insisted that the absence of stringent procedural requirements for suspension could lead to racial discrimination. Much the same arguments were made regarding limits on the power to evict tenants from public housing and to enforce broad vagrancy or panhandling laws—government discretion had to be curbed in order to ensure that minorities or the poor were not singled out for unfair and discriminatory treatment.

In this way, the intellectual currents of the legal revolution in individual rights affected the management of community institutions such as schools

and the civility of our streets, parks, and other common places. But how did these ideas affect the functioning of the criminal justice system?

Many began questioning whether the poor and minorities could be blamed for the crimes they committed. Our legal institutions and popular culture began identifying those accused of wrongdoing as victims of upbringing and circumstances. Many argued that human actions and choices, like events in the natural world, are often caused by factors beyond one's control. No longer was an individual identified as the cause of a harmful act. Rather, societal conditions or the actions of institutions or other people became the responsible causes of harm. These external causes might include poverty, poor education, a faltering family structure, systemic racism or other forms of bigotry, and spousal or child abuse, to name just a few. The consequence of this new way of thinking about accountability and responsibility—or the lack thereof—was that a large part of our society could escape being held accountable for the consequences of harmful conduct. The law punishes only those who are responsible for their actions, and in a world of countless uncontrollable causes of aggression or lawlessness, few will have to account for their behavior.

As a further extension of these ideas, some began challenging society's moral authority to hold many of our less fortunate citizens responsible for their harmful acts. Punishment is an expression of society's disapproval or reprobation, a way of directing society's moral indignation toward persons responsible for violating its rules. Critics insisted, though, that an individual's harmful conduct is not the only relevant factor in deciding whether punishment is justified. The individual's conduct must be judged in relation to how society has acted toward that individual in the past. Many began to hesitate to hold responsible those whose conduct might be explained as a response to societal injustice. How can we hold the poor responsible for their actions, some asked, when our society does little to remedy the social conditions of the ill-educated and unem-

ployed in our urban areas? Similarly, others questioned how we could tell blacks in our inner cities to face the consequences for breaking the law when the very legal system—and indeed the society—that will judge their conduct had perpetuated years of racism and unequal treatment under the law.

Once our legal system accepted the general premise that social conditions and upbringing could be excuses for harmful conduct, the range of causes that might prevent society from holding anyone accountable for his actions became potentially limitless. Do we punish the drunk driver who has a family history of alcoholism? A bigoted employer, reared in a segregationist environment, who was taught that blacks are inferior? The fraudulent and manipulative businessman who was raised in a poor family and who had never experienced the good life? The abusive father or husband whose parents mistreated him? A thief or drug pusher who was raised in a dysfunctional family and who received a poor education? A violent gang member, rioter, or murderer who attributes his rage, aggression, and lack of respect for authority to a racist society that has oppressed him since birth? Which of these individuals, if any, should be excused for his conduct? Can we really make any principled distinctions among them?

An effective criminal justice system—one that holds people accountable for harmful conduct—cannot be sustained when there are boundless excuses for violent behavior and no moral authority for the state to punish. If people know that they are not going to be held accountable because of a myriad of excuses, how will our society be able to influence behavior and provide incentives to follow the law? How can we teach future generations right from wrong if the idea of criminal responsibility is riddled with exceptions and our governing institutions and courts lack moral self-confidence? A society that does not hold someone accountable for harmful behavior can be viewed as condoning, even endorsing, such conduct. In the long run, a society that abandons personal responsibility will lose its moral sense, destroying, above all, the lives of the urban poor.

This is not surprising. A system that does not hold individuals accountable treats them as less than full citizens. In such a world, people are reduced to the status of children or, even worse, treated as though they were animals without a soul.

There may be a hard lesson here. In the face of societal injustice, it is natural and easy to demand recompense or a dispensation from conventional norms. But all too often, doing so involves the individual accepting diminished responsibility for his future. Doesn't the acceptance of diminished responsibility shackle the human spirit from rising above the tragedies of one's condition? When we demand something from our oppressors—more lenient standards of conduct, for example—are we merely going from a state of slavery to a more deceptive, but equally destructive, state of dependency?

What's more, efforts to rehabilitate criminals will never work in a system that often neglects to assign blame to individuals for their harmful acts. How can we encourage criminals not to return to crime if our justice system fosters the idea that it is the society that has perpetuated racism and poverty that is to blame for aggression and crime, not the individual who engaged in harmful conduct? Thus, it is society, not the wrongdoer, that is in greatest need of rehabilitation and reform.

What a painful irony it is that the transformation of the criminal justice system has had and will continue to have its greatest negative impact on our urban areas. It is there that modern excuses for criminal behavior abound—poverty, substandard education, faltering families, unemployment, a lack of respect for authority because of deep feelings of oppression. Doubtless the rights revolution had a noble purpose: to stop society from treating blacks, the urban poor, and others as if they were invisible, not worthy of attention. But the revolution missed a larger point by merely changing their status from invisible to victimized. Minorities and the poor are human beings—capable of dignity as well as shame, folly as well as success. We should be treated as such.

Quiet, Please

Julia Vitullo-Martin

**Repairing
New York's
quality of life
means getting
serious about
noise pollution.**

N

oise pollution is the great ignored urban problem, dismissed as a minor annoyance, unworthy of policymakers' serious attention. But to physiologists, it is a much weightier matter. They describe loud noise as a trauma, a warning that provokes the body's reflexes to prepare for an emergency. In most people, sound levels over 70 decibels constrict blood flow to the extremities while increasing it to the brain. The adrenal and pituitary glands rush hormones into the bloodstream. The liver releases glucose for energy. The fear persists after the noise stops, fading only gradually as the body waits for a recurrence.

Not only is loud noise a trauma; it can do permanent physical damage as well. Hearing loss, often caused by noise, is the country's most common chronic physical disability, affecting one in eight Americans, according to the Council on the Environment.

A certain amount of noise is inseparable from the urban ambiance—hot, young, energetic. But if people are to live peacefully in a close-packed urban setting, they must be able to count on limits to the noise their neighbors make. Accordingly, from the Babylonians forward, cities have routinely sought to outlaw unnecessary, excessive, offensive, or unreasonable noise. English common law deems freedom from noise essential to the full enjoyment of a dwelling: acts that diminish that enjoyment may expose the noisy to legal action. In modern times, precise new technology to measure noise has paved the way for more precise ordinances, such as New York City's 1972 law.

But technology to create louder noise than ever before has developed even faster than measurement technology, and today noise is seriously marring New York City's quality of life. "I hear more complaints about noise than I hear about murders and drugs," says Deputy Inspector James F. McShane, commanding officer of the 47th Precinct in the Bronx. Bob Leitman of the polling firm Louis Harris and Associates calls noise a "real top-of-the-consciousness" issue. In a quality-of-life survey Leitman conducted for the Commonwealth Fund, 62 percent of New Yorkers said noise bothers them; half of those said it does "to a great extent." Physicist and preeminent acoustical engineer Cyril M. Harris, who lives in a superbly quiet apartment high above the East River Drive, says he has concluded that every New Yorker has at

Illustrations by Arnold Roth



UP IN CENTRAL PARK

least one exasperating noise problem.

Much of the city's noise is unnecessary. For example, ambulance sirens often project their sound so inefficiently that it awakens residents 20 stories above, even while a driver three cars ahead may be unsure of where the sound is coming from. Noise intended to express oneself has hit unprecedented levels in amplified sound trucks for political candidates or music coming from rock clubs and discos. Some of that self-expressive noise has an explicitly

aggressive edge: teenagers with boom boxes, for example, or motorcycles with "straight pipes," an illegal resonant exhaust device.

The city's environment includes almost limitless sources and kinds of noise. But when the city government tries to quiet noise, it quickly runs up against the difficulties of measuring it accurately and claims of First Amendment rights. Add to that the irrational split in jurisdiction between two separate city agencies: the Department of Environ-

mental Protection (DEP) regulates what engineers call "community noise," like outdoor concerts, honking, construction, motorcycles, discos, and car alarms; the police, reluctantly, regulate private noise inside apartment buildings and single-family dwellings. But the bulk of DEP's 5,500 annual complaints are in the area of private noise, where the department has no jurisdiction, notes Commissioner Marilyn Gelber.

You have to measure noise before you can regulate it, and, even with the new technology, that isn't easy. Sound is measured in decibels, named for Alexander Graham Bell. Because the scale is logarithmic, not arithmetic, a 10-decibel increase

A sound of 40 decibels will awaken sensitive people; 70 will wake up almost anyone. Noise of 120 decibels causes discomfort and sometimes injury.

means that a sound has roughly doubled in loudness. Quiet breathing registers 10 decibels; quiet conversation, around 60; shouting across a room, 75. Midtown traffic ranges from 80 to 95 decibels, while an express subway train rumbling through a local station can reach 105. Registering 120 decibels are: a jet at takeoff, a rock band playing "normally" with amplifiers and loudspeakers, and a thunderclap, the loudest natural sound on earth. The specifications for sirens on New York City fire engines call for 118 decibels at 50 feet.

A sound of 40 decibels will awaken sensitive people; 70 will wake up almost anyone. Noise of 120 decibels causes discomfort and sometimes injury; 140 is acutely painful. The National Institute for Occupational Safety and Health says that two years of regular exposure to 90 decibels will produce hearing loss.

48 Measuring urban sound is especially difficult, because inspectors have to measure the prevailing

background noise before they can measure the additional noise generated by, say, a rock concert or street fair. Once the inspector has established the ambient level, he must take measurements at intervals and calculate the difference from the ambient level at each, an operation requiring much preparation.

Another complication: because some noise is the result of expressive activity, the city must design its regulations so as to control noise without running afoul of the First Amendment. Regulation of outdoor rock concerts is a frequent source of legal challenges, for at least since the 1960s popular music has often presented loudness itself as a political protest.

The U.S. Supreme Court has consistently held that governments may impose "reasonable time, place, and manner" restrictions to regulate nuisances attendant upon expression. A court will uphold such a regulation if it is tailored to meet a significant governmental interest, such as noise abatement, and if it does not discriminate based on the content of expression. The rule that applies for a rock concert, for example, must also apply to an equally loud opera performed at the same time of day.

New York's most famous recent noise case, *Ward v. Rock Against Racism*, demonstrates how furiously these issues can clash in practice. In the mid-1980s, the Parks Department was issuing some 175 permits a year for public performances in Central Park's Naumberg Bandshell. To avoid excessively disturbing the neighbors in the buildings that surround the park, the Parks Department needed a way of limiting the noise the concerts generated. Measuring the sound level and intervening during a performance had proved impractical, so the department came up with a different way to keep a hand on the volume control. In 1986 it hired its own professional sound engineer, or "mixer," who

would regulate the level of sound of every performance. If citizens complained, the mixer could make instant adjustments.

Rock Against Racism, an advocacy group that held annual all-day concerts in the park, balked at the requirement, because it regarded the mixer as a skilled band member, just as important as a musician. With William Kunstler as its high-profile attorney, the organization won a preliminary injunction against the required use of the city's mixer. Three years later, the case reached the Supreme Court.

In a six-to-three decision delivered by Justice Anthony Kennedy, the Court held the regulation reasonable and constitutional. But the disagreement within the Court reflects a fundamental conflict in viewpoints over the relationship between individual rights and the common good where noise is concerned. In a furious dissent, Justice Thurgood Marshall quoted musician and lexicographer Nicolas Slonimsky: "New music always sounds loud to old ears. Beethoven seemed to make more noise than Mozart; Liszt was noisier than Beethoven; Schoenberg and Stravinsky noisier than their predecessors."

But today's musicians not only sound loud to old ears; they *are* loud. The electronic technology they use to project their music is far more powerful than anything imagined by previous generations. Indeed, when asked what he would consider too loud, Rock Against Racism's mixer had replied: "I think a volume that would cause people's ears to bleed would be too loud." While music is unquestionably a form of expression protected by the Constitution, free expression does not entail a right to be as loud as one wants in any public place.

Rock bands aren't the only users—and abusers—of powerful amplification technology. For a few thousand dollars, a driver can equip his car with a stereo system capable of projecting music at out-

door-concert sound levels. These "boom box cars" represent a step up in aggression from the portable stereos popular among urban youths. Ironically, once it became clear that Sony's huge, powerful portable radios had become noisy blights, Akio Morita, Sony's CEO, had the Walkman developed as an alternative. But the Walkman didn't displace the boom box, selling like hotcakes instead to middle-class joggers. Morita had missed the cultural implications of the boom box, often used to attract attention or stake out territory.

By the early 1990s, complaints about boom box cars were pouring into precincts all over the city, especially in Washington Heights and Greenwich Village. The city's response was ineffective, owing to the convoluted system of jurisdiction. DEP inspectors had the meters to measure the noise, but only the meterless police could issue summonses.

In 1992, Jeremy Travis, then deputy police commissioner in charge of legal affairs, devised a strategy dubbed Operation Soundtrap to give officers meters and train them to use them, so they could enforce a long-standing state law allowing police to confiscate cars if their stereo sound measured more than 80 decibels at 50 feet. The campaign began in Washington Heights and Greenwich Village on Friday nights in mid-summer 1993. Police ship the seized cars to the distant Whitestone Pound, and owners cannot reclaim them until after paying a \$100 fine Monday morning.

Police in Washington Heights seized 40 cars in 1993 and have seized 103 so far in 1994, according to Captain Terry Monahan. In Greenwich Village, officers confiscated up to 10 vehicles every Friday night early in the program, but the effort was so successful that by the end of the summer of 1993 police were facing Fridays with no offending vehicles to confiscate. By the beginning of the following summer, the window-rattling, ear-shattering cars were back, and the police started in again. Village police confiscated 33 cars in 1994 and by the end of



THE NUISANCE PATROL

summer had eliminated the blight. "On Saturday night we were out to 4 AM, and the only boom car we found measured 76 decibels," Lieutenant Robert McKenna said in early September.

Soundtrap is an important step forward, but an early technical decision has constrained its effectiveness. Although the law's 80-decibel limit is itself beyond most people's tolerance, the Police Department has chosen to enforce a higher level—83 decibels—in order, it says, to make its cases ironclad. But because of the logarithmic scale, the three-decibel difference represents an exponential increase in loudness.

50

The sum total of noise that boom box cars make pales to insignificance compared to the braying of countless automobile alarms, which can be as loud as a 100 decibels. They are intended to deter theft, but most insurance actuaries and criminologists deem them ineffective: many alarms go off so easily and repeatedly that people no longer associate them with danger. Some make purely gratuitous noises, beeping hello when the driver enters the car. And some, like the Invisibeam Plus, claim public space as the domain of the car, barking orders at pedestrians who merely walk by. "It works in two languages," says a Brooklyn merchant who sells the Invisibeam—"English and rap." The rap version

Quiet, Please



Adding \$200 to \$2,000 to the cost of a car, they can save 10 percent annually in insurance premiums.

New York City's current noise code requires that alarms cease after three minutes, and periodically City Councilman Sheldon Leffler of Queens reasonably proposes banning alarms outright. The city could ban their use within city limits, subject to fines. At the very least, the State Legislature should end the mandatory insurance discount. Quiet anti-theft devices are available—steering-wheel locks like the Club, for example. Lojack, a silent tracking system that sends radio signals out from the car, allowing police to locate it on a computer screen, may well be the wave of the future in auto security.

Honking, another automotive nuisance, is meant to annoy. "Don't honk, Bobby," Senator Robert F. Wagner once told his son, the mayor, when they were caught behind a slow-moving car. "The man is a voter." Honking is illegal

begins: "Yo! I know you want to look inside, but I suggest you step away from the ride." If a passerby fails to comply, the voice continues: "You violated the perimeter beam; you now have five seconds to leave the scene." If this warning fails, a noisy alarm starts wailing.

Though alarms that go off without the car being touched are illegal in New York, state law actively encourages drivers to own conventional alarms. A law passed in the late 1970s requires insurance companies to give discounts to owners of cars equipped with them. Alarms have become standard equipment on most cars sold in the city.

in New York City, except in an emergency. But New York drivers routinely use their horns to notify the driver ahead of a changing light, to express outrage at bad driving, to ward off pedestrians in the crosswalk, to assert their manhood, or to blow off steam.

Nearly everyone who challenges a honking citation at the city's Environmental Control Board gets off, usually on the grounds that an officer couldn't know for sure who was honking. Other cities, however, particularly in California, effectively punish honking under the same provisions that cover amplified sound and barking dogs.

City officials attribute the worsening honking by taxi drivers over the past few years to the many new drivers from countries where honking is commonplace. But even if drivers arrive thinking honking is fine, the Taxi and Limousine Commission should instruct them otherwise in its mandatory training courses and should enforce the noise code against them. Right now it does neither.

A fire engine roared down Columbus Avenue, lights flashing and horn honking, en route to Poulet Away for an emergency take-out chicken.

Noise generated by many kinds of business is usually controlled by a combination of regulation and negotiation. Restaurant air conditioners venting outside, for example, cannot exceed 45 decibels. In the mid-1980s, after the city had persuaded the *Daily News* to keep its printing plant in Brooklyn, angry residents complained that the huge trucks that deliver newsprint were too noisy. When an environmental study confirmed their complaints, the *News* provided double windows to some 60 local households and spent hundreds of thousands of dollars to soundproof its facility. Not every business, however, would be so accommodating or have as strong a reason to be concerned about its public image.

Noise is at the very heart of businesses like rock clubs, discos, and aerobics studios, all of which regularly register 110 decibels and above. Proprietors tend to look on complaining neighbors as neurotic nuisances, but DEP inspectors take complaints seriously. For a period in the 1980s, inspectors visited the Jeff Martin Studio on Manhattan's West Side every week. The studio's solution was an expensive renovation that included tightly sealed double-glazed windows. Most complaints ceased.

teams are targeting clubs and discos, but here the law explicitly constrains the police, who must measure noise inside an apartment, not on the street. The practical complications are enormous: police must find someone, preferably ahead of time, who will let the team come in, perhaps repeatedly, in the dead of night when noise is worst.

The Police Department faces the same problem in regulating loud businesses as it did with boom box cars before Operation Soundtrap: various state and city agencies have jurisdiction over different parts of the process. The Police Department should develop an assertive program for regulating loud clubs and

discos, starting with a simple change in the city's administrative code eliminating the requirement that noise from a commercial club can only be measured from inside an apartment.

An astounding amount of noise comes directly from public agencies, which are, unfortunately, exempt from the noise code. Shrieking brakes on city garbage trucks, an order of magnitude louder than those of almost any other vehicle, frequently awaken citizens as sanitation workers make their morning rounds. Despite empty streets and green lights the whole way, five fire engines barreled up Amsterdam Avenue at 8:15 on a recent Sunday morning, blaring a symphony of noise in which horns and sirens blended with an accompaniment of little yelps. On another Sunday, a fire engine roared down Columbus Avenue, lights flashing and horn honking, en route to Poulet Away for an emergency take-out chicken.

Sirens are perhaps the most notorious governmental noisemaker. Their purpose, of course, is to signal an emergency and induce vehicles to yield. But drivers often have trouble locating the siren's wail, a problem caused by the modulating frequency. Cyril Harris says a far better device is the loud-speaker, which can be directed at a particular vehi-

cle: "You, in the red car, move to the right!"

Sirens sometimes panic people into doing the wrong thing. And because their overuse teaches people that a siren often doesn't mean an emergency, New Yorkers have learned to disregard them. This, in turn, becomes a justification for even more aggressive use of sirens. Solution: use sirens and horns only in true emergencies, and configure them to be as inoffensive as possible to get the job done. At present, the Police and Fire departments don't consider their siren noise a problem and refuse even to measure it.

Ambulance sirens are an even more vexing problem. Emergency Medical Service spokesman Charles DeGaetano says that "indiscriminate use of the siren is strongly frowned upon," but acknowledges that some of the agency's ambulance drivers put their sirens "on continuous mode so they don't have to fiddle with the siren while they're driving." In addition, the ambulances of voluntary hospitals and organizations like Hatzolah, essentially unregulated, can mount any siren or horn they like, no matter how loud, and use it whenever they want.

So loud is the subterranean din of the subways that a transit policeman recently couldn't hear the calls for help of two fellow officers being attacked 140 feet away. Decades of poor maintenance have created the mind-numbing noise. While not subject to city control, the Metropolitan Transportation Authority is subject to New York State's 1982 Rapid Transit Noise Code, which it violates on many counts despite the \$1.47 billion it has spent to bring itself into compliance. The state's overly lenient code requires that most cars maintain noise levels below 85 decibels. Instead, cars average in the high 80s. The MTA was supposed to be in compliance by this year, but is still far from that goal. Arlene Bronzaft, a psychologist who did the original research on the damaging effects of noise that led to the 1982 code, says the MTA refuses to measure subway noise. Moreover, she says, one can

verify that the subways are too loud by taking a rough measurement with an amateur's meter. "I did—on the A train—and measured 100 decibels, way over code."

Neighbors' behavior is the most common source of noise complaints, according to Harris. The best solution is usually private negotiation. Diplomacy, however, may not be enough. Many indoor sounds are both persistent and elusive. The loud television you blame on your upstairs neighbor may be several stories away; its sound has traveled a circuitous path to reach your apartment.

A key to indoor quiet is good construction. Harris says that New York's standards are acceptable, but California's are better, requiring, for example, more sophisticated insulating materials. And many New York City apartments were built between World War II and the 1960s, when standards sagged.

Renters have some protection under the statutory right called the "warranty of habitability," which requires the landlord to provide a dwelling "fit for human living," and under a common law right to "quiet enjoyment" of an apartment. These provisions obligate the landlord to police the behavior of other tenants. But in practice, if private negotiation fails, tenants must generally take their landlord to court in order to enforce their rights—a costly, time-consuming process that doesn't guarantee success. One solution for the noise-bedeveled is to move to a co-op with strict rules: some, for example, ban the playing of televisions and radios late at night and have boards willing to take on noisy shareholders.

The police are traditionally reluctant to intervene in disputes about private noise. In many precincts, operators will simply tell callers it is not a police matter. But when James McShane arrived at the Bronx's 47th Precinct in January 1994, he decided to do something about the precinct's most frequent citizen complaint: deafeningly loud backyard

Quiet, Please

stereo systems installed to entertain parties of 400 to 500 people, who often pay \$5 each to attend. McShane and the NYPD counsel's office developed a legal strategy to control noise by seizing private property.

Police frequently seize property as evidence, but the offending sound equipment was huge. "You'd need a truck to carry it away," McShane says. The counsel concluded that police could also seize property to abate a nuisance, taking just the speaker wires, turntable, or whatever would render the equipment inoperable.

McShane created a noise-abatement unit that worked in three stages. First, police identified "recidivist locations," where parties had produced complaints in the past. Second, they posted signs saying noisy parties were against the law. Third, they did "preemptive work," warning the householders who had offended before. Only after these efforts failed would they resort to seizing property.

On an average Saturday when the weather is nice, the unit handles 50 noise complaints. McShane says the program has been a striking success: "I heard constant complaints about what we weren't doing in January, but I got only one irate call this summer. There was a party, it was bad, and we didn't do anything. We'd had an off-duty cop shot, a homicide, and we didn't have the manpower to handle the party."

McShane's experience demonstrates that police assertiveness can have a powerful deterrent effect on noisemakers. The unit's officers have not had to seize any sound equipment because lesser measures have been so effective.

If the public demands a quieter city, their elected officials will eventually respond. Anger about noisy garbage collection prompted the Lindsay administration to mandate garbage bags instead of cans for apartment buildings. Bensonhurst resi-

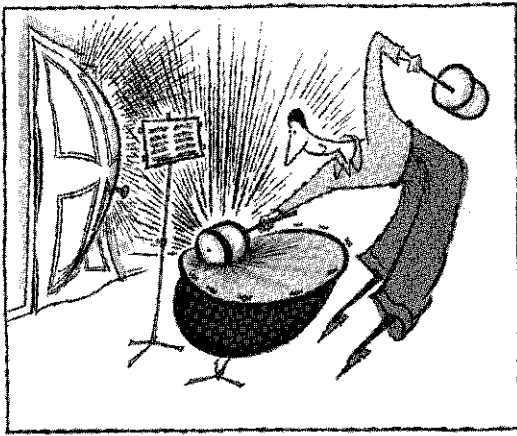
dents calling themselves the Big Screechers pressured the Transit Authority into modifying the brakes on subway trains in the mid-1980s.

Harris suggests Mayor Rudolph Giuliani begin by calling the city's own employees to account. He should ask bus drivers not to honk; he should demand that all city vehicles adhere to the muffler ordinance; he should instruct drivers of emergency vehicles to minimize the use of their sirens; he should order the Sanitation Department to fix the brakes on its trucks.

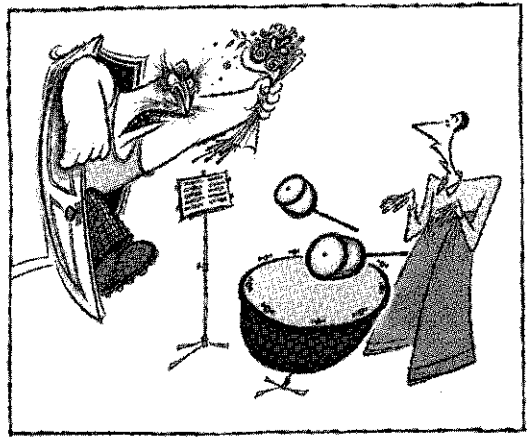
At the same time, the mayor should put the onus on nongovernmental sources of noise that depend on government services. Street fairs, for example, are a tremendous source of noise during their high seasons in spring and fall, in part because they have become too frequent and in part because traffic is not alerted properly to street closings or directed properly at jammed intersections.

And what about the noise that private citizens generate, from car alarms to honking to blaring music in the apartment upstairs? A forceful public-awareness campaign could make noise a front-burner issue and embolden the 62 percent of New Yorkers who are troubled by noise to speak their minds. Such efforts, combined with strictly enforced ordinances, have reduced noise significantly in Memphis, Chicago, and throughout California. The NYPD has made noise-abatement part of its recently announced strategy for combating quality-of-life crimes. Active police involvement is crucial: as Inspector McShane found, the vast majority of people will comply with reasonable requests from officers.

Excess noise is a form of pollution, not an inevitable part of urban life. Environmentalists have succeeded in cleaning the city's air and water; they have one more frontier to conquer. Mayor Giuliani was elected to improve the quality of life in New York—and that means making the city not only wealthier and safer, but quieter as well. ●



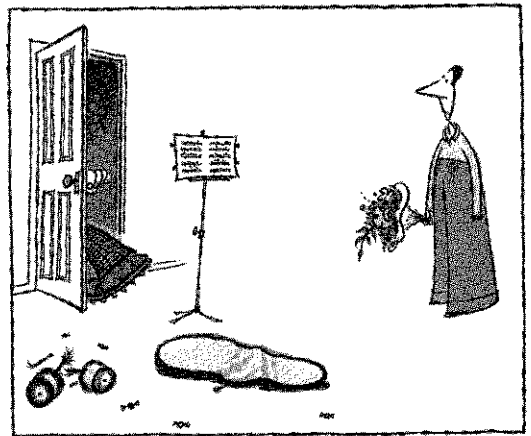
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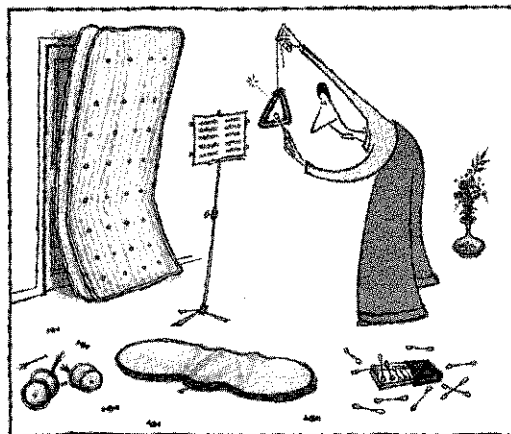
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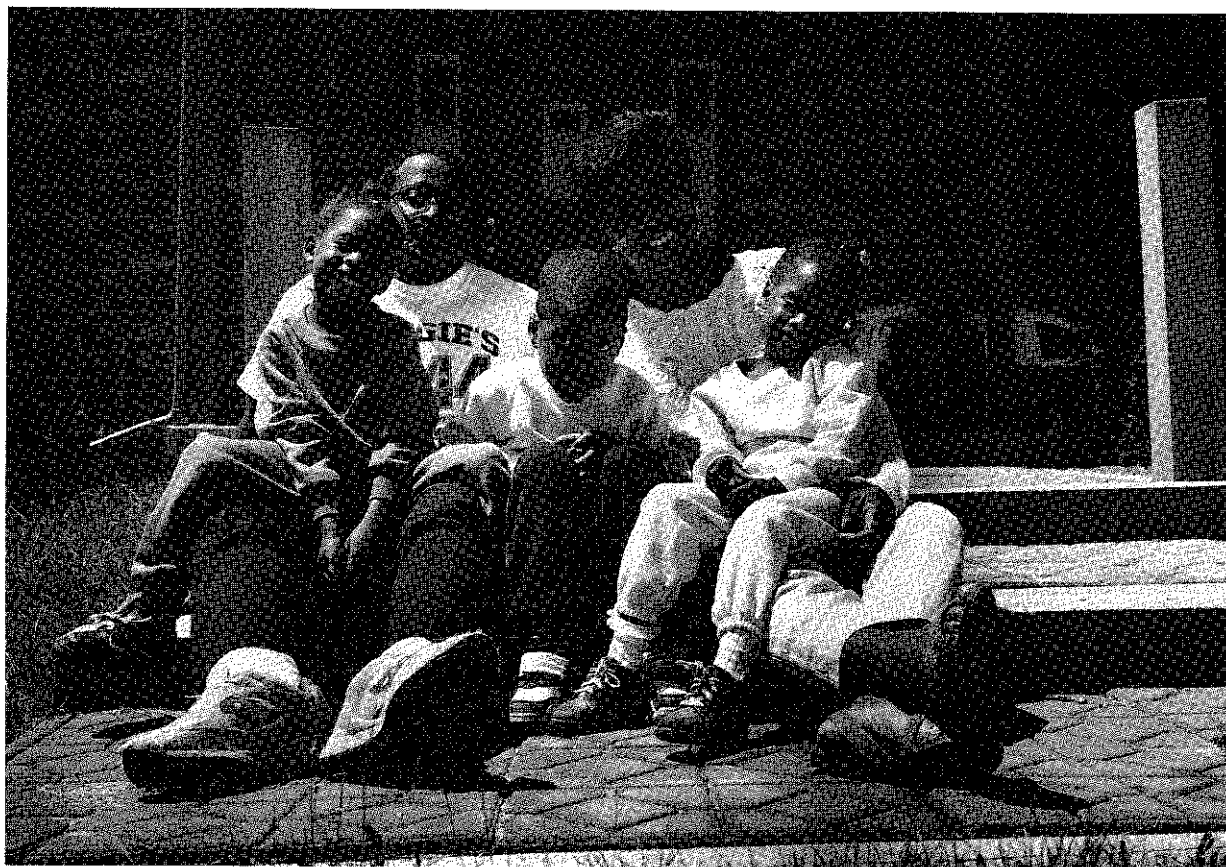
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THE GIFT OF PRIVATE NEGOTIATION

Integration Without Tears



Roger Starr

On the outer fringes of the New York metropolis, racial equality has become a reality.



In the hills of northeastern Pennsylvania, a thousand vigorously competitive land subdividers have inadvertently achieved a breakthrough in public policy that many levels of government have tried vainly to accomplish for years. Without intending to—and without quotas, subsidies, or artificially cheerful television appeals to human goodness—these developers have given birth to scores of brand new, stable, racially mixed communities. From the Boston area to the environs of Portland, Oregon, many similar solid, integrated communities have sprung up beyond the rings of existing, largely segregated suburbs, on sites previously deemed too far from the central city job market to be “commutable.”

A fairly recent resident of northeastern Pennsylvania's Monroe County, I commute with 46 other passengers by express bus between the Delaware Water Gap and the Port Authority Bus

Photographs by Nancy Jo Johnson

Terminal in New York. My return bus leaves the city at 5:45 PM each day, bearing many regular passengers back to Pennsylvania. About three-quarters of us are white, the rest African-American with a small sprinkling of Latinos. Some of us sleep; some talk to our neighbors, occasionally making dates for barbecues in each other's yards; some read, do crossword puzzles, or test each other with Trivial Pursuit. We complain when traffic is heavy. We have our favorite drivers, and we hear them warn each other by citizens' band radios of lurking New Jersey State Troopers. As the bus rolls into increasingly rural landscapes, there's a cheerful undercurrent of ribbing, mock flirtation, and homeowner chatter about heating systems, television reception, and even visiting bears in the garbage.

The under-forty males, supplemented by acquaintances from other buses, have established a softball team whose members may drive twenty miles or more to play league games on summer weekends. The coach is a senior accountant for a university endowment fund. The first baseman is one of several computer specialists. One of the outfielders writes magazine articles on country music and jazz. No Jackie Robinson was needed to break the color line on this team, nor on some of its rivals.

Until the late 1970s, the region had been accessible from New York City and Philadelphia only with difficulty. The railroads had gone out of business long before, after the decline of anthracite coal mining; their dilapidated but once handsome slate-roofed stations (slate mining was another historic occupation) testify to the region's long-protracted economic decline.

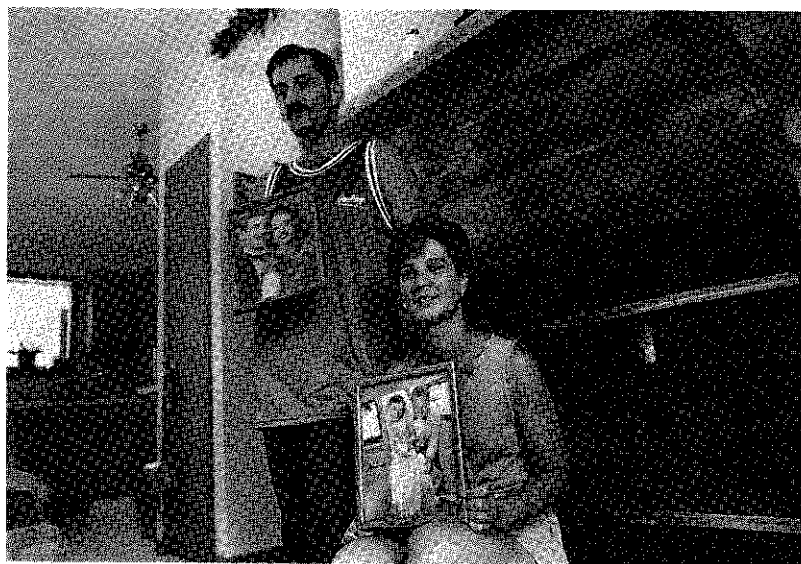
The land subdividers saw two facts that piqued entrepreneurial interest. The legislated development of the interstate high-

way system eventually would cut travel time between northeastern Pennsylvania and New York City, Philadelphia, Newark, and Wilmington. Secondly, they foresaw, along with students of public opinion, an astonishing growth of demand among American urban families for a second home. The northeast corner of Pennsylvania seemed like the ideal place to fulfill that desire. The handsome land was cheap because of its dwindled accessibility and economic paralysis—and cheap to build on, because building codes and union protocols had not yet crossed the Delaware.

Although the subdividers were right that people would buy the houses they built, they were wrong about why. A growing middle class, made up not only of white ethnic Americans but also African-Americans and members of other ethnic groups, hankered to live in areas free from both the traditions and institutions of racial exclusion, such as country clubs, and the disorder and crime of the city neighborhoods in which they then lived. They looked beyond the near suburbs that had become too costly for them and that had hitherto served as



Above: Alex and Rachel Wentz. Opposite page: Harold and Marilyn Wentz with children (from left), Rachel, Alex, and Melissa.



Jim and Joyce Signorelli left an extended family behind in Queens.

a wall against their escape from the central city.

New middle-class seekers of escape from the city read the newspaper advertisements of subdivisions in northeastern Pennsylvania. They liked what they saw—the prices, the scenery, the

Certainly the departure from the city of such solid neighbors and taxpayers won't make it any easier to ameliorate the conditions they fled.

proffered services, the greeting—and they bought lots. Turning the expectation of the subdividers on its head, they acquired not a second home, but a primary residence. They abandoned their rented apartments and began commuting from Pennsylvania to their jobs in the city during the week, an adventure made practical by the expansion of express bus services along the two new interstates across New Jersey.

By mastering new fields in communications, office technology, and medical services, or by becoming a

two-job family, many of the migrants, white and nonwhite alike, had risen beyond the shabby standard of living their urban neighborhoods offered. They sought to escape the whole tangle of urban problems—the poor public schools; the high taxes in exchange for fewer or lower quality public services; the entrenched poverty, with its attendant welfare dependency, homelessness, violence, and drugs. Certainly the departure from the city of such solid neighbors and taxpayers won't make it any easier to ameliorate the conditions they fled.

No precise census can be taken of those new northeastern Pennsylvania residents who

have established their primary residence in the area and commute to jobs in northern New Jersey or in New York City. What is known—from the 1990 census—is that northeastern Pennsylvania's central Monroe County has experienced a 53 percent rise in its total permanent population since 1980. The black segment of the population rose at half again as fast a rate—75 percent. Most of the newcomers have left central cities, predominantly New York. The Pocono Chamber of Commerce asserts that growth of the permanent population has been continuing since 1990.

The anecdotal evidence for this trend is eloquent. The bus station parking lots keep filling, growing, and filling again. New faces appear on the platforms almost daily. When the 5:45 PM arrives at Stroudsburg around 7:30 PM, a cluster of New York City Transit Authority workers, men and women, black and white, has gathered. They take an evening bus into the city, work from midnight to 8 AM, take an early-morning bus back home to Pennsylvania, and congratulate themselves on their escape.

Integration Without Tears

In the most common type of subdivision, the entrepreneur plats the individual housing sites, lays out the community center, and sells each site subject to certain zoning rules that govern the size of the house, its placement on the lot, its color range, and its general conformity to the subdivision's prevailing architectural style. Successful subdividers have found the balance between communal harmony and individual self-expression.

These arrangements affect the relations between homeowners. The rules treat everyone identically, without different zoning districts applying different standards to nearby houses. All of the houses are of relatively the same size and value. Everyone belongs to the same community association.

Jim and Joyce Signorelli—he is a building maintenance engineer, she a legal secretary—moved to Bushkill, Pennsylvania, from Richmond Hill, Queens, three years ago. No one in their big extended family in Queens expected them to “stick it out” in Pennsylvania. “They thought we’d be back in six months, homesick,” Joyce says. “Of course,” she adds, “we do miss a good Italian restaurant.”

The Signorellis told me that, in the large, hilly subdivision into which they had bought, nothing resembled a New York ethnic neighborhood. There aren't any German, Italian, or Jewish sections. “When you see colored people on the bus or in the community center, color doesn't come into it,” Jim Signorelli says. “They're the same kind of people we are; they're as afraid of crime as we are. That's why they're here in the first place. Their children are the victims. Here, they have a better chance for a decent education.

“Someone said to me,” Signorelli continues, “No wonder you feel safe up there. There are no black

people to rob you.’ I said, ‘What has black got to do with it? Black, white, yellow, green, they're all the same. In New York, if you see people arrested for a crime on the television news, they're likely to be black. But up here, they are likely to be white.’”

In a different type of development, a contractor has constructed a 25-unit row house complex designed in an eighteenth-century style evoking colonial Williamsburg. Three stories high and lining four sides of an open square, the houses sell for about \$130,000. Though a sharper contrast with the typical regional development would be hard to imagine, all the houses have been sold.

Among the purchasers are a pair of African-American widows who have spent their careers working for New York City's Human Resources Administration. Emily Robinson, born in Maryland and a longtime Bronx resident, is the managing director of the agency's East Bronx office, having risen step-by-step from an entry-level job. Originally from Flatbush in Brooklyn, Cheryl Alston, who shares the apartment with her, works in the same office. The two women commute daily



Emily Robinson likes the friendliness of her adopted community.



No Jackie Robinson was needed to break the color line on Pennsylvania's amateur softball teams.

to the Bronx, sharing the driving of Mrs. Robinson's car.

Their principal motive in coming was the desire to escape what they felt New York City had become. Now, getting to the office between eight and nine requires them to leave East Stroudsburg by seven. "During the week," Mrs. Robinson says, "we don't do much of anything when we get home except sleep and wash clothes. But it's worth it."

The two women found their home by chance on a weekend trip. Mrs. Robinson had noticed on previous visits the "friendliness" of the area, she says. Returning to a small restaurant for breakfast a week after their first visit, Mrs. Robinson recalls, she was astonished that the waitress remembered exactly what she had eaten the last time.

"We have all kinds of couples represented here," she told me. "We are two black ladies sharing a home. We have an Oriental couple. We have an interracial couple. We have a black nurse living in a house by herself." This diversity does not reflect deliberate social engineering; it is a perfectly voluntary development. People saw the townhouses, liked them, found they could afford them, and were not faced with the prospect that if they as

nonwhites moved in, the development would become entirely black.

Says Mrs. Robinson: "The small size of the community allows people to get to know each other, and discover that, since the housing can only be occupied by others of the same socioeconomic class, they have more similarities than differences. When we first moved into the building, we were invited to a barbecue in someone else's backyard simply because we were new and our hosts wanted to make us, like any other newcomers, feel welcome. We do. We've become friends."

The high hilltop in appropriately-named Effort, Pennsylvania, that Harold Wentz, his wife, and their three children chose is a sharp contrast to Mrs. Robinson and Mrs. Alston's housing. The view on the way up the hill is spectacular. Impressive also is Mr. Wentz's daily commute. He takes an express bus to New York City and then changes to a PATH train that takes him back to New Jersey, where he now works.

For the Wentzes, the decision to move from Queens Village in New York City came while he was in his former job as a computer specialist for Westvaco in its Park Avenue office. Wentz wanted to find a

lifestyle that fitted the salary bracket and level of responsibility he had earned. What's more, the Queens Village apartment would soon be too small: Mrs. Wentz was expecting twins.

"We were the first family to buy and build on the top of the mountain," Harold explains. "Now we have companions. A year ago, my new friend Bob and his wife moved into the house they built on the same street as ours, and we have become friendly neighbors. His wife and mine exchange recipes and vegetables. Two new houses are going up across the street from us."

Harold, of Cherokee Indian and African-American descent, is pleased to find that his neighbors on the mountain treat him and his wife with a respect commensurate with the status he has achieved as a systems programmer and analyst. Since moving to Pennsylvania, he has changed jobs, going to a Jersey City brokerage firm. "I can't agree that this is heaven or Shangri-la," he says. "There is no such thing. But I find that the people here are very understanding. Since the civil rights revolution of the 1960s—in which I was too young to participate actively, but which I think was the most thrilling event of my lifetime—most people have come to understand that people are people, and that what most of us want is a good place to live, a good school for our children, and a chance for our children to have things a little better than we have."

His two grandfathers were sharecroppers, Harold says. By dint of determination and hard work, his mother's father was able to buy a 140-acre farm in North Carolina by 1939, long before the civil rights revolution. His own father, one of 14 children, was a chef in a Miami restaurant owned by people who would not serve either

blacks or Jews. "I wasn't old enough to understand what that really meant," Harold says, "but the time came when the restaurant was sold to a group of Jewish people, and beginning right away that same restaurant served anybody who could pay."

"I was very much impressed by that," Harold told me. "It proved something my father had been impressing on me for a long time: that the only real empowerment is the empowerment of money and ownership. I'm proud of my grandfather, who was able to own a farm, and of my father for sticking to that same principle."

Eric Seale, an occasional rider on the 5:45 bus, lives with his wife and high school-age son in Tamiment, long ago a socialist summer colony. Today, Tamiment is a three-thousand-acre tract that boasts a hotel, ski slopes, swimming, golf, and tennis. Of some two hundred homeowners, the Seales, who are African-American, are among forty full-time residents. The rest are summer and weekend people. The home sites are small—Seale's is half an acre or less. But each home is a house in the woods. Searching for separateness, the Seales



Softball players drive up to twenty miles for weekend games.

Integration Without Tears

moved from Flatlands, Brooklyn, to escape from the city and get into the woods.

Seale is a customer engineer for Xerox, sent out to provide whatever repair or maintenance buyers of large, high-speed machines need. After graduating from high school during the Vietnam War, he volunteered for the Air Force, where he learned how to repair and service fighter aircraft. He subsequently worked for Boeing. Although born in Brooklyn, he greatly prefers the country to the city. His wife, office manager for a real estate development firm in New York City, feels the same way. The Seales also have a grown daughter who lives, as Seale describes it, "on the other side of the mountain." The couple takes the bus to New York from the park-and-ride station about 17 miles from their house.

"The main difference between New York and Tamiment," Mr. Seale says, "is the peace and quiet of the woods. Deer are so common that we don't bother to plant flowers—the deer would eat them. My wife has counted as many as thirty wild turkeys in our driveway at one time."

All these people—ethnically as diverse as can be imagined—live in harmony because they share the same middle-class values, concerns, aspirations, and status. It is a heartening contrast with the not-so-distant past. In his classic 1937 book *Caste and Class in a Southern Town*, sociologist John Dollard argued that persons of color in the United States are a separate caste from the white population, with permanently diminished status no matter what social class they would belong to by virtue of income, occupation, education, and family history. A black man might be called "Doctor" or "Reverend" or "Counselor" by whites—but never "Mister."

Eradicating that caste line, Dollard believed, would be a difficult, perhaps impossible, task.

My experience in northeastern Pennsylvania strongly suggests that the caste line between blacks and whites has largely faded, even, in certain circumstances, disappeared. This does not mean that social class distinctions, considerably more difficult to overcome, are not still very strong—they may always be. The percentage of black Americans relegated to the lower class because of income, education, dysfunctional behavior, and lingering prejudice is surely larger than the percentage of whites similarly classified. But a significant number of blacks—undoubtedly in the millions—have moved into the middle class.

The relationship between blacks and whites in the residential subdivisions out beyond the suburban ring suggests that middle-class people of both races recognize each other as equals. Among middle-class Americans, at least in the special circumstances of these Pennsylvania communities and others like them around the country, the terrible burden of race has been lightened greatly. ●



Residents prepare for the two-hour commute to New York City.

In Foster Care, Children Come Last



Rita Kramer

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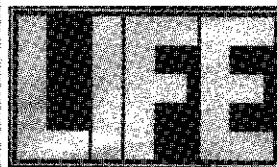
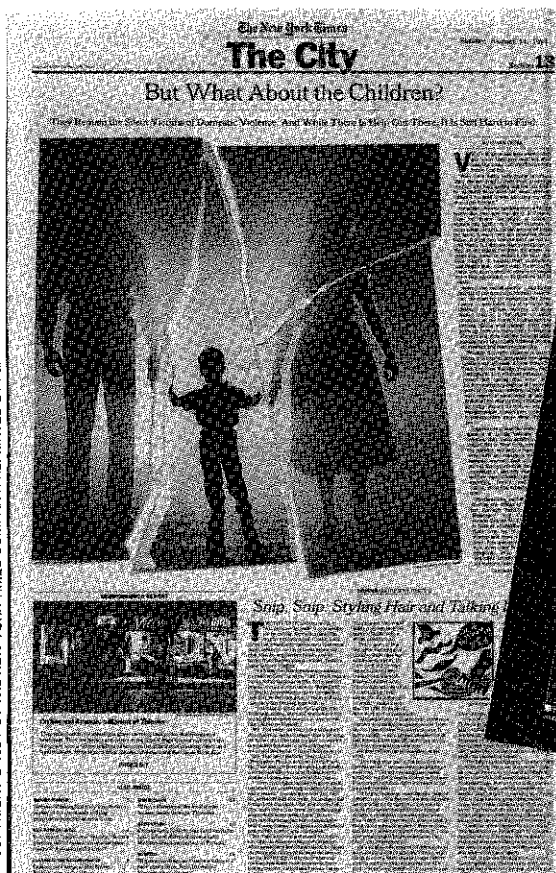
hen police found four-year-old Shayna Bryant's body in March 1994, it was covered with blunt-force injuries, both old and new; some of her wounds may have been cigarette burns. She died, according to the New York City medical examiner, of "child abuse syndrome." Her parents, Orlando and Sherain Bryant, were indicted on murder charges.

A system intended to save children instead often conspires in their abuse and neglect.

Shayna died even though the city's Child Welfare Administration (CWA) had long before judged her to be at risk and had put her in a foster home when she tested positive for cocaine at birth. When she was one year old, her father petitioned successfully for custody, and at the time of her death, Shayna was living with—and apparently being brutalized by—both parents. Police said that when the girl misbehaved, her parents would make her choose between a beating and a day without food.

Sadder still, Shayna's story isn't an isolated instance. America's foster care system, originally set up to rescue endangered children, all too often returns them, sometimes over and over again, to abusive or neglectful parents. In New York City alone in the 12 months of 1992, 21 children were killed by a parent or mother's boyfriend after CWA had intervened.

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bias in favor of biological families—appropriate under normal circumstances but tragically misplaced in the case of parents who fracture the skulls or bones of six-month-old children; who have sexual intercourse with five-year-old daughters; who beat, burn, and starve their children.

Thus, over the course of the 1970s, permanency planning came to mean that a child's "stable home" should if at all possible be his biological parents—or parent's—home. The federal Adoption Assistance and Child Welfare Act of 1980 formalized this outlook: it required state agencies to make "reasonable efforts" to avoid out-of-home placements and to reunite children with their biological parents as soon as possible.

New York City's policy toward "positive tox" babies—those born with cocaine or other drugs in their bloodstream—is an extreme example of this misguided approach. Until 1990, drug-addicted mothers automatically lost custody of their children at birth, on the assumption that addiction made them unfit parents. But since then, the city has followed a state directive allowing removal of such children only if there is proof of continued drug use *and* if social workers determine that the



mother actually abuses or neglects the child. This policy means waiting for the worst to happen before rescuing the child.

To keep biological families together, child welfare agencies offer a variety of services designed to help them overcome crises. Family Preservation, as the effort is known, operates on the assumption that mothers or fathers who neglect or even torture their children will be redeemed by a class in parenting, some help with the rent, or a new refrigerator. Only after such measures have failed is a child

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eligible for adoption. Remarkably, officials measure the success of these efforts not by whether the child is safe and healthy but by whether out-of-home placement is avoided.

"It seems very naive to expect to correct a lifetime of disappointment, neglect, and dysfunction through a brief burst of social work attention and investment of resources," says Dr. Mark Simms of the American Academy of Pediatrics. Richard J. Gelles, director of the University of Rhode Island's Family Violence Research Program, points out that 30 to 50 percent of children killed by parents or caretakers perish after child welfare agencies have intervened and either left the children in their homes or returned them after a brief removal.

One of many such victims was a baby girl I'll call Darlene, born to a 15-year-old mother identified in official records as Jane Doe. At seven months, Darlene was brought to an emergency room with a double fracture of her left arm. A caseworker accepted Jane's explanation—that the child had accidentally fallen—and persuaded Jane, clearly a drug addict, to enter a rehabilitation program.

At her first session in the program, Jane admitted

that she had caused Darlene's injury by angrily pushing over the child's stroller. The social worker saw the admission not as cause for alarm over the baby's safety but as "an encouraging first step toward rehabilitation" of the mother. Less than two weeks later, before Jane's second counseling session, Darlene arrived at the hospital again, this time suffering from a head injury. Her body was covered with old and new bruises, and Jane admitted that she had toppled Darlene's crib in a fit of rage at her persistent crying. The baby was pronounced dead on arrival.

Jane had three more children within the next five years. She physically abused all three, losing and regaining custody of each. When the children were finally removed for good, it was not because all three bore the marks of beatings, as was the case, but because Jane had been missing her drug rehabilitation sessions.

By returning children to abusive or neglectful parents—often more than once and with a succession of foster homes in between—the system not only subjects them to further danger but also deprives them of the permanent bonds that are crucial to psychological development. Consider the case of

What It Costs

To illustrate the high costs of kinship foster care, consider the hypothetical case of a poor single mother of three children, ages 4, 10, and 13, living in New York City. Under welfare, she would receive a \$688 monthly check for their support.

But if her sister took custody of the children under kinship foster care, the monthly payment would be \$1,421, more than twice as high. The aunt would also receive a clothing allowance of \$1,388 per year and could be reimbursed for the cost of new furniture for her nieces and nephews. (In addition, whichever woman has custody of the chil-

dren would be eligible for a housing subsidy of about \$300 a month and could apply for such means-tested benefits as Medicaid, food stamps, and school breakfasts.)

The monthly foster-parent payment ranges from \$401 per month for each child under 5 to \$547 a month for children over 12. Those caring for "exceptional" children, those with severe mental or physical handicaps (including AIDS), get \$1,332 per month. Other benefits for foster families include baby-sitting or child care, pediatric services, moving expenses, and a monthly diaper allowance of \$47 for children three and under.

Errol, who entered a foster home at age two, after his third trip to the emergency room. CWA removed the boy from his mother's care when doctors found fresh welts and the scars of earlier blows inflicted, the mother said, by her live-in boyfriend. After a year in foster care, Errol had overcome his nightmares and his extreme shyness and was making up for lost time in developing both motor and social skills. At that point, he was returned to his mother's care: she had completed the prescribed number of counseling sessions.

Even when "preventive" efforts fail and parents lose custody of their children, social workers, guided by the same race-conscious ideology, still try to keep biological families together through the policy of kinship foster care. Both the 1980 federal Adoption Assistance and Child Welfare Act and the 1979 New York State Child Welfare Reform Act require caseworkers to consider relatives first among placement options for children needing foster care.

The number of such placements exploded with the crack epidemic of the mid-1980s. Before then, the illegal drug most commonly abused had been heroin, and its users were primarily male. The spread of crack among women sent the number of abused and neglected children soaring. Between 1985 and 1992, the number of children in foster care nationally jumped from an estimated 300,000 to some 460,000, with crack-exposed babies accounting for most of the increase. New York City's CWA saw its caseload triple. And by 1990, more than 22,000 New York City children were living in relatives' foster homes—almost as many as the 27,000 in traditional foster families.

The average biological mother of children in foster care is not the teenager, unable to cope with the responsibilities of parenthood, whom one might expect to find. More often, though she probably had her first child while a teenager, she is in her late twenties or thirties. The babies kept coming, along with the problems; the father or fathers left.

As pressures mounted, she turned to drugs, and her behavior toward her children deteriorated. She might leave them unsupervised, neglect to feed or clean them, even beat or burn them. Family Preservation didn't work for her, so CWA turned to her relatives as the next option.

The spread of crack among women sent the number of abused and neglected children soaring.

In a typical scenario, a harried caseworker arrives to find an unkempt and perhaps injured child in a roach-infested apartment, with the drugged mother and her current boyfriend about to be led away by police. If it is late in the evening, a placement cannot be arranged until the next day, so the child might have to spend the night in a makeshift cot in an agency office. Looking for an alternative, the caseworker will ask the mother if she knows of anyone with whom the child can be left. The response is often the name and address of her own mother, the child's grandmother.

By 1985, with the placement of children with relatives becoming commonplace in New York, the state established regulations for formally approving relatives' homes as part of the foster care system. But a 1986 lawsuit, *Eugene F. v. Gross*, established that, in emergencies, children must be placed with relatives immediately, without the usual investigation to assess whether those relatives could provide a suitable home. In 1989, the New York State Legislature made this no-questions-asked "emergency" policy the norm where relatives are concerned. Moreover, it required that child welfare agencies actively search for relatives to care for children who need foster care rather than place them with strangers.

But kinship foster care is often not in the best interests of a child. How can it be, if it automatically, unquestioningly places him in the same family that produced his abusive or neglectful parent? "Unless [relatives] are carefully selected, trained, and

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supervised, kinship care arrangements may expose children to potential risks similar to those from which they have been removed," says Dr. Simms of the American Academy of Pediatrics.

Though brochures from foster care agencies often picture smiling, middle-aged grandmothers with their arms around happy children, the reality is quite different, according to those who work within the system. "Some of these grandmothers are worn out, uneducated, and haven't a clue as to what the emotional needs of these at-risk children are," says a New York child welfare official. "For every grandmother doing a good job, there's probably another who shouldn't have these kids in her home, who fails to give them the stimulation they need to develop their minds. But the official policy is to place them with any relatives, as long as they're walking around and capable of changing a diaper." That policy may be said to be the Alice-in-Wonderland version of family values.

An estimated one-third of parents whose children are in foster care were foster children themselves, evidence of an intergenerational cycle of dysfunctional families.

People tend to treat their children the way their parents treated them. An estimated one-third of parents whose children are in foster care were foster children themselves, evidence of an intergenerational cycle of dysfunctional families. Breaking that cycle requires rescuing children before they have been irreparably harmed, rather than leaving them in an abusive family until the worst has happened.

Not only is kinship foster care often bad for children; it is also an enormous boondoggle. Under the *Eugene F. settlement*, government payments for kinship foster parents are the same as for traditional foster parents—much higher than the welfare checks parents receive under Aid to Families with Dependent Children (see box on page 66). Families, therefore, have a strong incentive to keep kids in kinship foster care, even if the children don't need it. A private agency contracting with CWA to place children in kinship foster care issued a report that

well illustrates the system's perverse incentives. "I don't have to plan for my kids," it quotes a parent saying. "They are with my family, and they are getting paid."

Particularly in New York City, inefficient, incompetent bureaucracies make misguided foster care policies even worse. CWA's social workers, in particular, are undertrained, underpaid, and overworked. Caseworkers come and go, sometimes even before they have gotten to know all of the children in their case files. Some caseworkers are responsible for as many as 30 children; the number recommended by the Child Welfare League of America is 17 to 20.

The background of the typical CWA caseworker? Consider: the starting salary is \$25,000; the only requirements for employment are a bachelor's degree—in one case, a B.S. in agriculture from a third-world university—and a simple multiple-choice test. The test is graded on a curve, and a city regulation, designed to prevent discrimination, requires that CWA fill any position by hiring one of the top three scorers among available applicants. Sometimes this means the agency must hire the least unsuitable of three unqualified applicants instead of continuing the search. And city regulations make it next to impossible to discipline, remove, transfer, or suspend a worker.

The days when social work was one of the few professions open to educated women are long gone. Today, social work has become an entry-level job for many immigrants, some of whom have not mastered English, some of whom come from cultures that accept corporal punishment as routine and reportedly can be insensitive to signs of child abuse. After just three weeks of classroom instruction and three months of field training, new caseworkers must deal on their own with some of the city's most difficult families.

Necessarily, caseworkers are often out of their depth. I spoke to a CWA official on the day a *New York Newsday* headline about the Shayna Bryant

case read: HOW THE BUREAUCRACY FAILED HER. "Why didn't they see it?" the official said, wearily repeating my question. "We expect these undertrained and overburdened caseworkers to make decisions doctors, lawyers, or psychologists are trained to make," she answered. "They can't recognize certain kinds of injuries." Few caseworkers stay in the job for very long. "They know they can go over to Probation and make \$5,000 a year more right away, and they won't have to go out into scary neighborhoods at night," the official says.

The cumbersome bureaucracy that administers the foster care system is further paralyzed by federal and state regulations that require, one CWA staff member puts it, "a paper trail that is ludicrous." The number of people dealing with these requirements is vast, and the bureaucrats outnumber the front-line caseworkers. Family Court Judge Judith Sheindlin's voice drips with scorn as she describes what she sees every day in her courtroom: "The city pays for a CWA caseworker, three tiers of supervisors, and a lawyer in every child welfare proceeding. Additionally, when a private agency is involved in the case, it sends a caseworker, a supervisor, and a case manager—plus private counsel. Surely a few of the nine people present in court on a single petition could be spared."

A system whose failures jeopardize the lives of hundreds of children and the futures of thousands more cries out for reform. Children who are shifted from biological parents to foster parents and back, who see caseworkers come and go, readily fall prey to gang membership, violence, and criminal careers. Although no official statistics are available, experts familiar with the prison system say that an overwhelming number of prisoners have been through the foster care mill as children. Lacking the attachments in early life that form the basis for character and conscience, too many grow up with an abundance of rage, little empathy for others,

A Place to Make Father Flanagan Proud

[illegible]

Antoinette and Darryl Gibbe have become instant "reveries" to several teen-age boys.

about young black men," he said. "What can I do to help some of them? Knowing how I grew up, what kind of things I went to the party to have, these things put a little in me."

After 10 years, he was living in a house that he had bought and he was going to medical school. "I was a little rich and about the middle of the road," he said. "After meeting representatives from New York, I felt I wanted to make my own money and work."

where, simple and plain. You just feel with me now as that with me later."

Workday began at 5:30 A.M. when the two officers were ready for school in uniform. Mr. Gibbs drove them there, and with a tap along the horizon line, he said, "I don't want them to think I'm some old guy just waiting them up."

While the two officers sat at school

The earliest combination of people and concrete that became a reality for the Olmecs, who lived about 1200 B.C., was their new.

The contractors, who are paid by the hour, will be working on the bridge, which was built in 1929, from 8 a.m. to 4 p.m. on the ground floor, and on the upper floor, from 4 p.m. to 8 p.m. The work will be done in the following order: first, the bridge will be closed to traffic; then, the bridge will be closed to pedestrians and bicycles; and finally, the bridge will be closed to all traffic. The contractors will be working on the bridge for a period of 10 days. The bridge will be closed to traffic for a period of 10 days. The bridge will be closed to pedestrians and bicycles for a period of 10 days. The bridge will be closed to all traffic for a period of 10 days.

They admit they've sacrificed comfort and even joy in order to make their money. "We don't have a much prettier time," Mrs. Gallow says. "We need a new piece of furniture to furnish this," she says.

Doses of

For older children, boarding schools or group homes work best.

and little sense of the consequences of their actions.

New York State has been experimenting with one approach aimed at reducing the length of time children stay in foster care. Instead of paying private agencies for the duration of a child's stay in a foster home, however long it may be, the state caps the amount it will pay for each child. The theory is that agencies will have an incentive to reduce the time a child spends in foster care and will more quickly return him to his biological parents or arrange for adoption. But this program makes no fundamental difference to the most pressing problem—children who remain too long with abusive or neglectful parents—since the focus is still on keeping the biological family together.

What would meaningful reform entail? Above all, child protection must replace family reunification as the guiding principle of child welfare policy. When children are found hungry, dirty, beaten, or sexually abused, they should be removed quickly. Those who would allow the equivalent of three strikes before terminating biological parents' rights ignore the fact that every strike leaves permanent scars on a child's mind and body. One serious incident of abuse ought to be enough to warrant termination of parental rights.

Kinship foster care should be strictly limited to those relatives who can demonstrate the capacity to provide a good home and who have a strong interest in the child rather than in a source of supplemental income. Adoption is the solution of choice for young children, because it provides them with a

In Foster Care, Children Come Last

stable home and enables them to bond permanently with their new parents. The ties that bind are woven out of the myriad little transactions between infant and caregiver—the daily routine of feeding and cleaning, comforting and cuddling, talking and observing. Thus, adoption should be easier and should begin early enough in life so that a child can form these permanent attachments. Adoption is also a boon to taxpayers. Even though adoptive parents receive the same subsidy as foster parents, adoption cuts the cost almost in half because it entails far less administrative overhead.

Those who would allow three strikes before terminating biological parents' rights ignore the fact that every strike leaves scars on a child's mind and body.

Lawmakers should eliminate any rules that make race or ethnicity a criterion for adoption. The notion that interracial adoption is "cultural genocide" has deprived countless black children of the opportunity to be part of a permanent, caring family. Moreover, scientific studies have failed to demonstrate any significant difference in social or psychological outcomes for black children raised by black or white parents.

Senators Howard Metzenbaum of Ohio and Carol Moseley-Braun of Illinois have introduced legislation that would bar federally funded agencies from delaying or denying adoption solely on the basis of race. "Keeping a black child in a foster home because some black social worker doesn't believe it's right to cross the race barrier is horrendous," Metzenbaum says. "It means that the child [may go] from one home to another, without . . . a chance of ever having real parents." The bill was incorporated in the Senate version of the Minority Health Act, which, at this writing, awaits reconciliation with the House version.

For many older children, who are harder to adopt, institutions like boarding schools or group homes—vastly different today from Dickens's horrors—are

the best option. "Instead of orphanages, call them long-term residential and educational placements," suggests Judge Bill Maddux of the Cook County, Illinois, Juvenile Court. "They allow you to take advantage of having a number of kids in one place to provide them with a real education. A kid realizes he's not the only one: there are others in the same boat. You remove him from the harmful community that caused his problems in the first place and let him grow up in an environment that can push a kid, give him confidence, move him forward, give him some spirit." Judge Maddux is well-qualified to comment, having grown up in Nebraska's Boys Town.

These reforms would go a long way to reduce the costs of the foster care system. "What is needed is not more money but optimum utilization of what we have," says Judge Sheindlin of New York's Family Court. "Instead of trying to deal with fifty thousand cases and doing it badly, why not eliminate the kind of ersatz foster care that goes on forever [kinship foster care] and concentrate on real foster care, limiting it to one year in a stable home and putting the savings into hiring better-trained caseworkers and paying them more?"

The financial costs, of course, pale to insignificance when compared with the system's heart-wrenching human cost. Sister Josephine Murphy, a social worker who administers Saint Ann's Infant and Maternity Home in Hyattsville, Maryland, tells of a seven-year-old boy with his back torn up by a beating with an electric cord. It took months to heal what he called his "mommy sores." A court order sent the boy back to his mother.

"Why do we leave children with mothers who can't or won't protect them?" Sister Josephine asks. "These children are orphans of the living, victims of the child slavery maintained by our legal system and our welfare departments." They desperately need a system that will put their interests first, that will find them a real family rather than condemn them to be further brutalized by their biological parents or turned into a subsidy for their relatives.●

Breaking Up The Board of Ed

Edward N. Costikyan

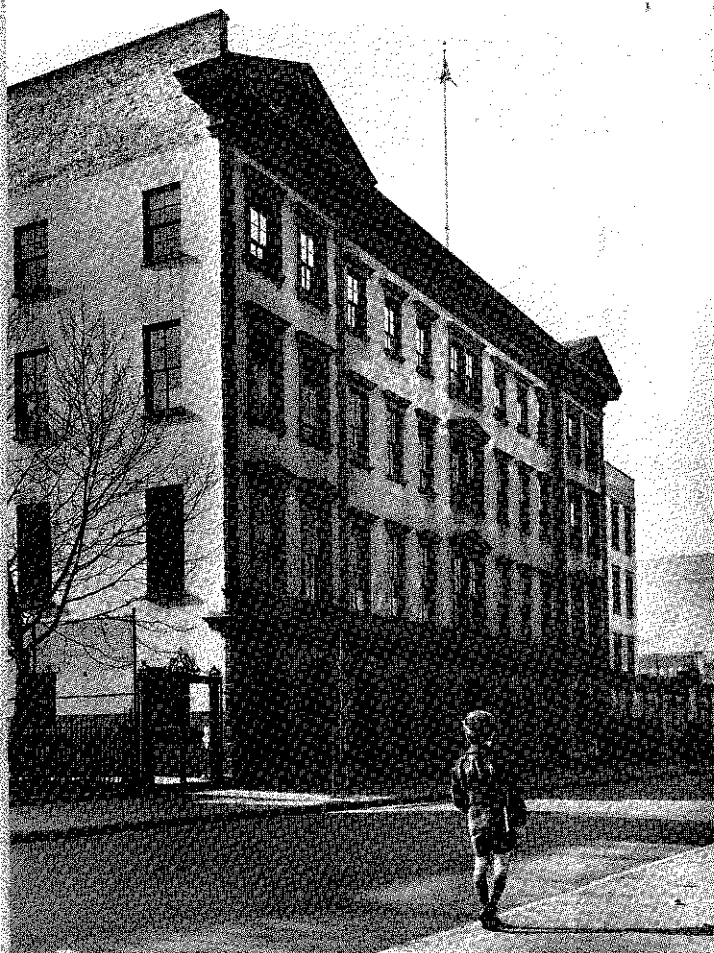
**A mayoral
advisor sketches
his plan for
dismantling
New York's
dysfunctional
education
bureaucracy.**

The governing structure of the New York City school system is the worst I have ever studied. One observer commented that, at the turn of the century, we went from a decentralized structure to a centralized one, which functioned well for more than fifty years. Then, in 1969, we went to a partially centralized, partially decentralized structure, which gave us the worst of both worlds.

For years, the central Board of Education and its bureaucracy have tried to micromanage the education system. This is natural in a hierarchical structure, where power flows uphill, and multiple layers of bureaucracy overlook those below. School maintenance and repairs in more than a thousand buildings are managed by a central office—with more than forty thousand unprocessed maintenance requests. School safety is the domain of central and borough bureaucrats, and safety officers report to the bureaucracy rather than to school principals.

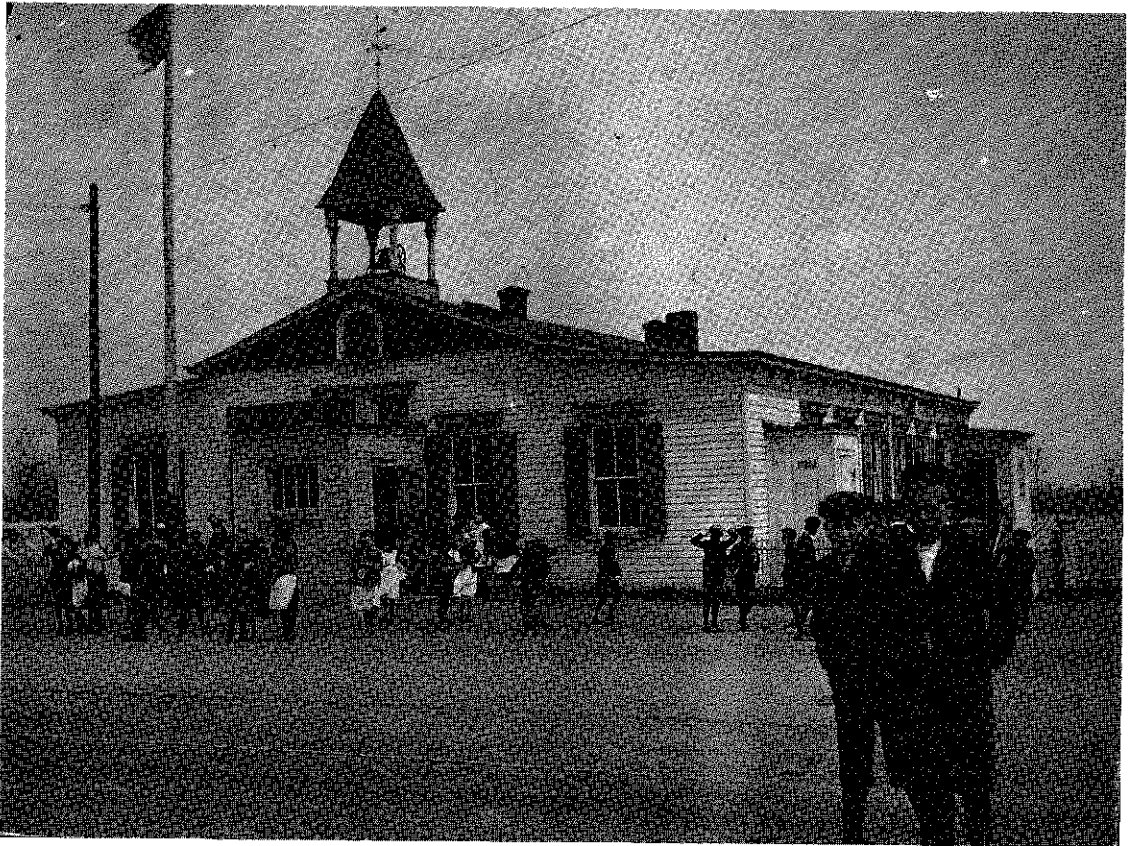
Schools must order supplies from a central office that is slow and, despite its buying power, often more expensive than local retail stores. Material sits in central warehouses when it should be in the schools. The centrally managed payroll system is so inefficient that some teachers wait for three months or more to get paid. Teachers who are already licensed by the state must also undergo a city licensing process. The central bureaucracy, not principals or schools, hires teachers and other school employees. The Board of Education also manages food services, serving 1.4 million meals a day.

Some central functions are duplicative. For example, there are now five levels of authority over the curriculum, and soon there will be six, once the Federal Government formulates national standards. The state Department of Education, the central Board of Education, and the district boards each has its own standards. That leaves two more standards at the point of delivery—the school's and the teacher's. Isn't one set of standards from above enough?



CULVER PICTURES

P.S. 33 in Manhattan, circa 1940.



A turn-of-the-century public school in Flushing, Queens.

Too often, bureaucratic imperatives take precedence over children's needs. Piecemeal reform will not suffice. Stripping away unneeded central functions one by one would take years of struggle, conflict, and infighting, while another one or two generations of students and teachers suffer.

I therefore recommend, Mr. Mayor, that you adhere to the position you took in the campaign and support legislation to eliminate the central board and reassign its functions.

Under my reform plan, the commissioner of education would be appointed by the mayor, with the advice and consent of the City Council. The commissioner would conduct collective bargaining regarding matters of citywide concern, such as wages and benefits, but work rules would be negotiated more locally, either by the boroughs or by the school districts.

Other central functions would include enforcement of mandates and court decrees, administration of pension systems, establishment of tenure standards, and budgeting—but the school, rather than the district or the entire system, would be the prin-

cipal budgetary unit.

The commissioner would also enforce federal and state standards, measuring how well schools are meeting them and taking remedial action when progress is inadequate. In addition, he would define city standards—but only if the federal and state standards prove insufficient. With the central Board of Education abolished, a qualified commissioner could perform these broad centralized functions without getting entangled in the traditional, counterproductive micromanagement typical of the central board.

Duplicative central functions, such as teacher certification, should be eliminated. The city should contract out payroll processing, turn auditing over to the Comptroller's Office or to the private sector, and, to insure the integrity of local school districts, turn investigative functions over to the Department of Investigation. Capital budgeting should remain centralized, with the commissioner submitting a budget request to the mayor and City Council.

Each remaining function should ultimately rest with the most local layer of administration that can

efficiently perform it. Higher levels should have no authority to micromanage these functions, lest power flow back to the top. At this point, it's too early to identify the level of government to which each function should ultimately be transferred. Instead, I would recommend an initial transfer of certain central functions to borough-level boards, with a mechanism that would enable a later transfer to districts and schools, once they develop the capacity and public confidence to take on the responsibility.

The idea of a borough-level Board of Cooperative Education Services is central to my proposal. A state-created entity, it is designed to provide services that are more efficiently managed on a regional basis than by individual districts and schools.

Local school boards, and perhaps also city officials, would appoint leaders of the borough boards. The boards would be service providers, charging schools and districts for the services they render—which would vary, depending on the needs of the school districts. Because these boards would have no supervisory role over districts or schools, they would not amount to five versions of the current bureaucracy.

Schools and districts could purchase services from the private sector if available at lower cost or higher quality. For example, a school could contract out teacher training to one of the many colleges or universities in the city. If a school or district wished to take over a function from its borough board, it would simply have to persuade the Comptroller's Office to certify that it is fiscally prepared to undertake the function, the Department of Investigation to certify that it is free of corruption, and the commissioner to certify that the school or district's assuming such a function will not interfere with its proper educational roles.

I would recommend that the following functions be initially transferred to the borough boards: central

listing of open teaching positions and assistance in recruiting teachers; granting tenure to teachers; collective bargaining on issues of local concern; discipline; training of local school board members (as a condition of taking office); purchasing; transportation; food services; major school maintenance; operating high schools (now under central board control); fingerprinting employees (if the police and Department of Investigation cannot handle this function); special education; and libraries.

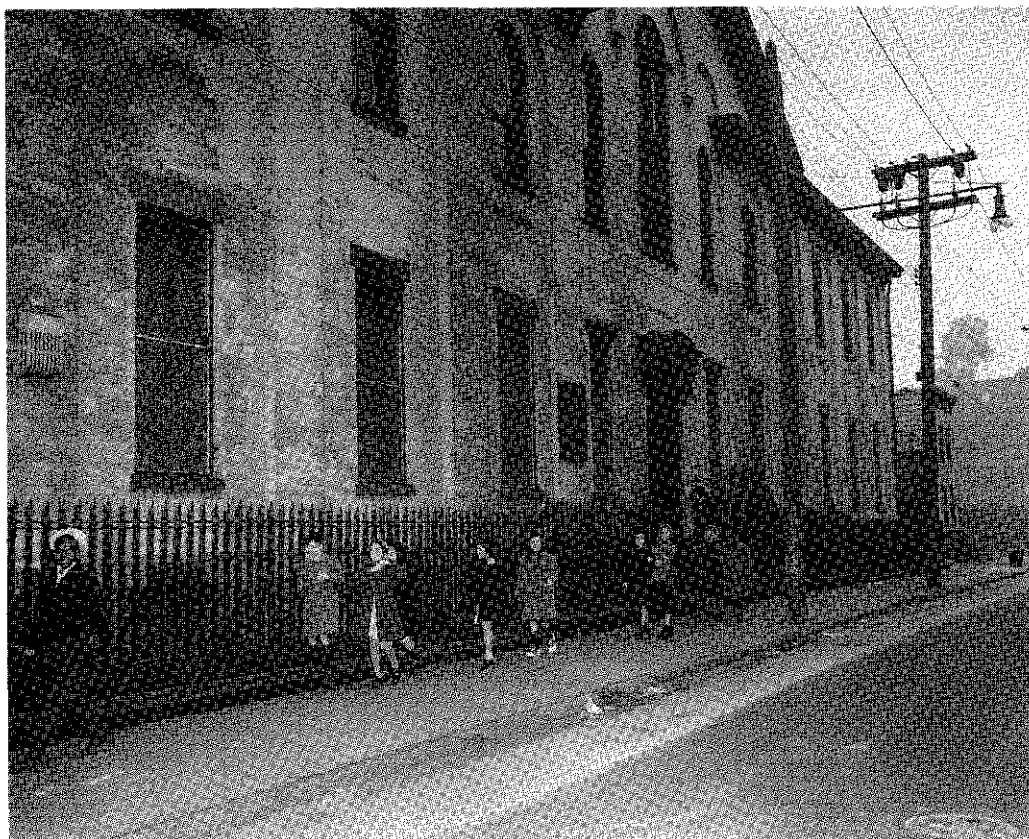
Some functions would go to the district level from the outset: hiring a superintendent; transferring personnel within a district; granting leave; professional development and training; extracurricular activities; bilingual education; and determining the use of school facilities during non-school hours.

I am hesitant to recommend that other functions be initially assigned to the school districts, because the present districts lack public confidence. A district-by-district transfer is the soundest approach. Some districts are ready for more independence, while some are not. The process I have suggested would enable the commissioner, comptroller, and Department of Investigation to make precise judgments about each district or school requesting a transfer of power. I would also recommend improving the system of local school board elec-

Too often, bureaucratic imperatives take precedence over children's needs. Piecemeal reform will not suffice.

tions, so that those districts that do not qualify for more responsibility are subject to heavy pressure to measure up or be voted out of office.

Even without legislation, the chancellor and the existing Board of Education could undertake one important reform on their own: creating a special district for schools that are capable of managing their own affairs, free of the central board's interference. At least one such school already exists—the Wildcat Academy (see *City Journal*, Autumn



Heading home from school, circa 1950.

1993). A new district could encourage the creation of many more. If the chancellor and the board establish such a district, they should place no cap on the number of schools that can be included.

The requirements of admission to such a district can be established by borrowing from the experience of other independent public schools—the British opt-out schools, Los Angeles’s LEARN Schools, and charter schools in states like Colorado, Massachusetts, Michigan, and Minnesota. Such requirements would include the creation of standards and tests to measure educational results; a vote by the parents and faculty to create a school; the establishment of a board of parents, teachers, and qualified citizens to oversee it; and the creation of a school administrative structure consisting of the principal, a business manager, and other necessary personnel, all of verifiable integrity.

Each independent school should have its own budget and be free to purchase goods and services from the private sector. It should have the autonomy to choose its own teachers and staff, so long as they meet all relevant legal requirements. It should be

free to create its own curriculum, within state and city guidelines. Its admission requirements would be the same as those of other schools—open to enrollment by any student within current board regulations.

The chancellor would review each school’s educational results annually, through tests of what its students have learned in the course of the year. If a school’s results were unsatisfactory after a reasonable period of time, it would lose its independent status and revert to its original district. Unlike the present method of testing, the new system should start with a measure of where students are at the beginning of the year and then gauge their progress at the end of the year. It is unfair to penalize a school because its students start below the norm.

Fundamental, citywide decentralization is the most promising way of reforming the school system. But even an experiment in independent schools would be a valuable first step toward a school system of the future, in which school-based management is a reality rather than a motto, and the focus is on the school rather than the bureaucracy.

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Urban Architecture Awakens from a Bad Dream

Vincent Scully

However horrible these thirty years have been in architecture, they've also been a period of liberation. That liberation has been a slow, progressive waking from a dream—from the mad dream of Robespierrean purity, of an architecture which had no debt to the past, no respect for the existing urban fabric, which regarded all of that as inessential, which rewrote history and changed our memories. As with so many revolutions, from the French to the Soviet, intolerance—and, in the end, totalitarian thinking—directed the fundamental urban planning ideas of high modernism as it developed in the 1950s.

From that dream we've awakened, and those of us from my generation who were deeply marinated in modernism can hardly believe what has happened to us. Today most of us can hardly remember some of the things we believed as gospel thirty years ago.

In those thirty years, we've had a revival of the vernacular and the classical traditions and their reinte-



THE BETTMANN ARCHIVE

Architects yawned over Penn Station's demolition in 1963.

gration into the mainstream of modern architecture. Even as late as 1960, that was totally unimagined. Then, as the natural culmination of that revival, has come a revival of traditional urbanism, which perceives architecture at its proper scale. It is not an architecture of individual buildings, lined up like paintings in a gallery, free of urban context, intended to be admired for their own special inventiveness. It is an architecture of the community as a whole, architecture as it has always been—culture's basic stratagem, mediating between the individual and the terrors of nature's law.

Predating all those developments in architecture came the only mass popular movement that has fundamentally affected the development of architecture in the twentieth century, the historic preservation

movement. Indeed, the changes that took place in architecture over the last thirty years owe as much to the popular movement toward historic preservation as to the professional concerns of architects. In fact, the people took architecture back. The high modernist architects felt that the people really didn't know what they wanted: they didn't even know how they should live. They had to be told; they had to be guided.

But all of a sudden, a mass popular movement was able to make architects and planners do what it wanted. It was able to affect politicians and so to affect the fundamental route through which all important urban architecture comes about, and that is through the law. The preservation movement is preoccupied with the preservation of communities as a whole rather than

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simply with individual buildings. Through the development of preservation law, and especially the first great ordinance of 1965, a code took form through which we now see architecture as a coherent urban structure.

In those same years, the major political revival has been the liberation of the Soviet Union and Eastern Europe, and David Remnick, in his beautiful book, *Lenin's Tomb*, makes clear that that liberation is basically a liberation of memory, a liberation of history. He builds his whole book around that idea, stressing the fact that Gorbachev's very first talk initiating perestroika was about the necessity of reviving history and rehabilitating its martyrs. That is just what historic preservation has done. It has given us back our

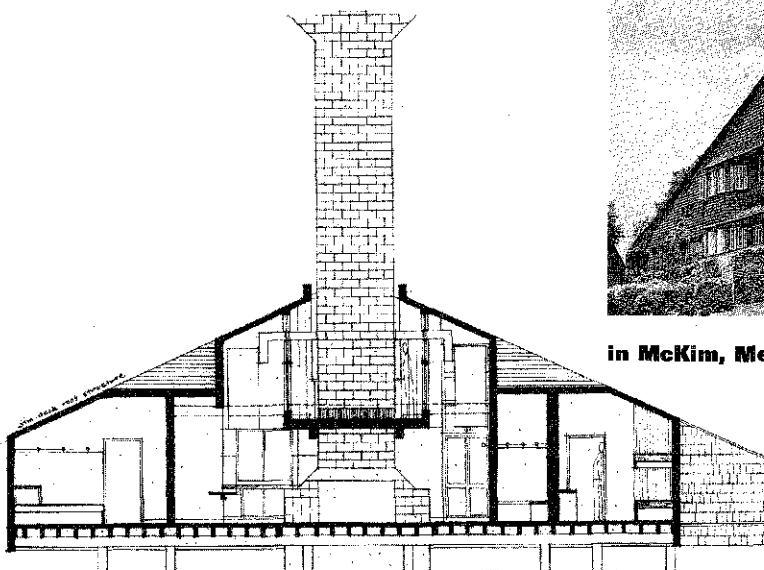
memory. Without memory one is a slave; only through memory can one be free. And certainly only through memory can one create cities as a whole.

The martyrology of preservation is a very important part of what we know. The first great martyr is Penn Station. It's inconceivable today that it could have been torn down as it was in 1963. We remember the indifference, even the hostility, of many members of the profession, because it wasn't a modern building, because in its great waiting room the steel arches were covered with another material. How that wonderful ascent into the open from the trains below, going through that great forest, and then coming out finally into that wonderful waiting room, with vaults so high over one's head—

how that could have been allowed to go is something we can't understand today, and that is an indication of how far we have come. All that wonder was just taken away, and a rat-like warren succeeded it.

Out of that loss came the ordinance of 1965, so that New York City had the power, moving into the early Seventies, to save the great waiting room in Grand Central Station. However, it was too late to save that wonderful free space of Park Avenue, with its beautiful running of the traffic around Grand Central's office tower. It was too late to save that from the Pan Am Building, which was sited the wrong way, should have been turned in the other direction, and is primitively detailed in a manner that's very difficult for us really to understand now.

COURTESY OF VENTURI, SCOTT, BROWN AND ASSOCIATES



Robert Venturi found inspiration for his Beach House . . .



in McKim, Mead, and White's Low House of 1887.

Even before that, Lever House, as a very special new kind of building set off by the buildings around it, broke the rule of the street—that the avenue was defined by the planes of buildings that ran along with it. Instead, it cut a hole

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through the wall of the avenue and began to destroy its definition. Now all the towers have been covered with glass. Only the Racquet Club still stands, solid and warm, defining the space.

We began to learn that there were difficulties in defining urban volumes with glass. We began to learn that it wasn't only a question of saving buildings, but of saving the urban environment as a whole. We began to see that the streets were themselves buildings, and had to be thought of in that way. We learned back in 1967 that it was the relationship of buildings to each other to make an urban place that counted as a principle: we later came to call it contextuality.

The architect who most developed this in his own work, who learned the lessons of preservation and preservation law, though he might sometimes deny that himself, is Robert Venturi. One of his earliest works, the Guild House, tries very hard, with its red brick and its white trim, to get along with the preexisting, rather common buildings on its street. It tries to make its particular place as a whole a little better on the place's own terms. And it's just at this time that Venturi is writing in *Complexity and Contradiction in Architecture* that Main Street is almost all right. To say so in 1966 was an absolute break with the puristic, cataclysmic planning principles of the International style.

Contrast that with the high modernism of the Whitney Museum, which tries in every way to out-



Venturi's urbane extension of London's National Gallery.

rage the scale of the little buildings around it and indeed shields itself from them with a thin concrete wall to the south. Even when one looks at a more genial building like the Guggenheim, one realizes that it depends on the civility of the buildings around it. Though Wright constantly said that we should think of the museum as being in the park rather than on the street, he is nevertheless exploiting the civility of the other buildings along the street. If those buildings were torn down and everybody put Guggenheims there, the street would become a strip.

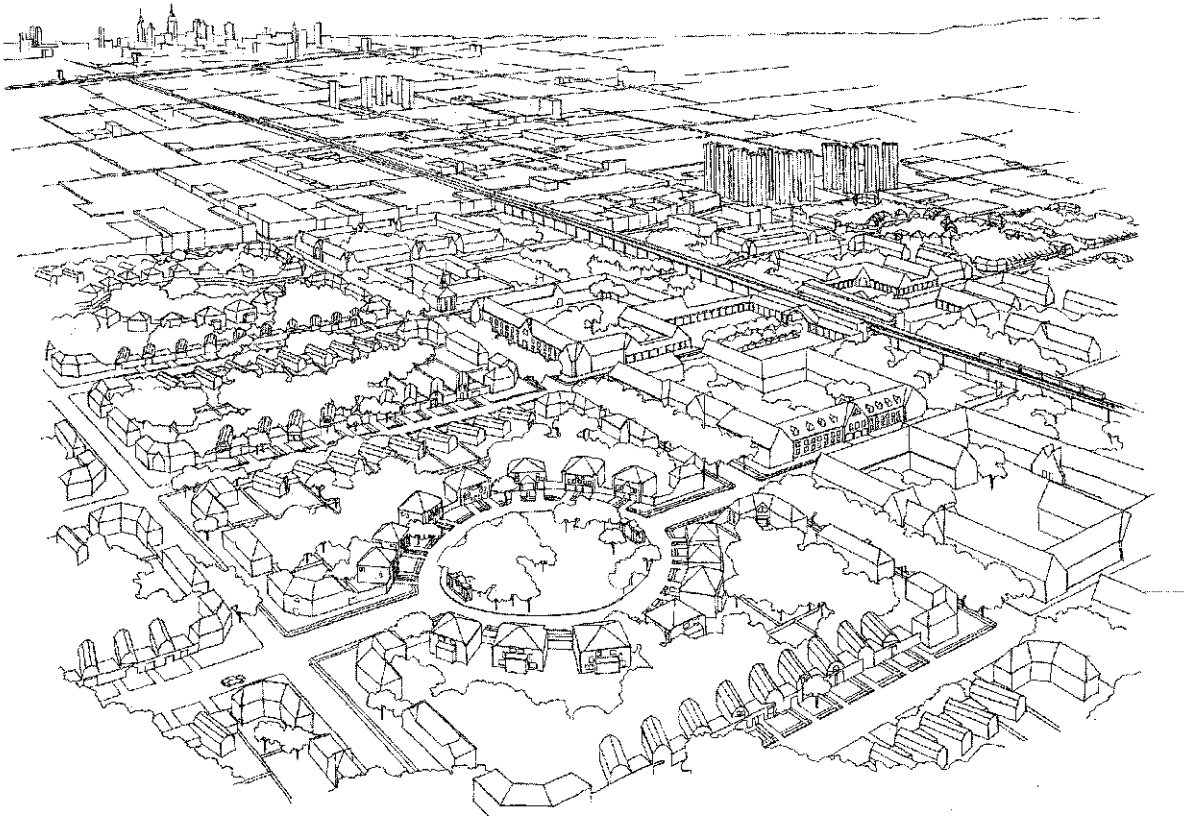
Venturi does the opposite with Guild House, though the forms he uses come directly from Louis Kahn, who didn't care a rap about preservation or contextuality. Kahn wanted to be a hero; he wanted to reinvent the wheel in

every building he designed. But the reason that everything new began to come out of Kahn was that he went to the absolute basic structure. Exactly like Piranesi and the romantic classic architects before him, he went to the ruins of Rome, and built his ruins without glass.

Venturi learned to get along with what preexisted. The nineteenth and twentieth centuries had been preoccupied with the invention of style. And this is difficult; the result, as with the International style, necessarily reductive. It's a little like creating religion: and in this context I'm reminded of the story about Talleyrand. A young man came up to him and said, "Mr. Talleyrand, I would like to start a new religion: how do I go about it?" Talleyrand said, "It's not difficult; all you have to do is die and

MATT WARGO

SUBWAY SUBURB



COURTESY OF ROBERT A. M. STERN ARCHITECTS

In the burned-out South Bronx, Robert A.M. Stern envisions a "subway suburb."

rise again on the third day."

All this preoccupation with pure style may well have been modern architecture's worst mistake. What we should have been thinking about was contextuality. If the modern era has anything that's good for us as against other periods, it is the fact that it provides more choices and that our culture

can be pluralistic. Since we have more possibilities than ever before, why insist that it all has to be one? Why not say architecture should be eclectic, should be many?

That's what Venturi does with Wu Hall at Princeton University. He designs the building clearly as a modern building, even almost an International style building. It

employs a curtain wall, but Venturi inflects it to get along with the preexisting Tudorish buildings of the 1920s. In other words, he opts for improving the place just a little on its own terms, to heal it and complete it as an environment rather than to outrage it with a building different from it. He does the same thing in Philadelphia in the Institute for Scientific

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Information, which is more or less International style because the context is.

In the Sainsbury Wing of the National Gallery on Trafalgar Square in London, Venturi starts with the very best thing that poor old Wilkins's building has—his colossal pilasters. He makes what he calls a *cadenza* with them, and then stretches them out across the surface of his diagonal wall. As he does so, the pilasters get fewer and fewer, and the windows progressively disappear, but as the wall reaches the street, a big full column stands out and breasts the space of the square in front of it and echoes Nelson's column in the center. But the element that holds the building together and is most powerful on the square is the big, abstract modern black void that opens it up.

The English criticism was vicious. One critic, not understanding the principle of contextual design, called the metamorphosis of surface elements "slime." Another critic, completely confused, said he would have embraced it all if Venturi had come riding in like a crazy American from the plains, shooting off his six-shooter. Venturi had already done that when he built his fire station in Columbus, Indiana, to gesture toward the fast road in front of it. This was a different place—Trafalgar Square, in fact. Contextually, the column finally calls to Nelson's, and beneath all the play of pilasters, it is the great black void that is stronger than any other form along that wall and which finally shapes the square.

Here it's clear how closely the idea of contextuality is connected to the idea of community, because the individual building must relate to the other elements that make up the town as a whole.

Thirty years ago we hardly thought of community at all. In architecture, we thought of the individual alone—how the individual could be released to nature. Philip Johnson's glass house is the absolute apogee of modern architecture in that form. It looks as if it is, in fact, just a way to plug the individual into this society's basic amenities, such as electricity, and to surround him with glass walls through which he can see the seasons change. It is the perfect image of the liberated individual, totally released from community and from restraints. It is modernism at its height.

When I came to build my own house in 1950, I wanted it to be like that, even though I didn't have any money. It was intended to be a poor man's Johnson, a big open volume with a central cinderblock core and as much glass as possible, set in the woods so I wouldn't have to look at any of the other houses that might be built around it. I couldn't stand to look at them at that time because they weren't pure, they weren't modern; they were colonial.

I had already written about the American vernacular in *The Shingle Style* and *the Stick Style*, but it never occurred to me that you could use it. It never occurred to me that you could break the membrane

between what was past and what we could do today. So it never occurred to me that one could take the Low House and its shingles and have a gable roof and mulioned windows. I couldn't have drawn any of that anyway—nor could most people at that time—so it never occurred to me at all.

But it occurred to Venturi in 1959. His Beach House project clearly grows directly from Low House's shingles and big gable shape. He is the first of the modern architects who says, I will not invent. Aldo Rossi, in Italy, was soon to do much the same thing. His teacher, Rossi tells us, looked at his early work and said, "Aldo, your work looks like that of any dumb mason that comes down out of the mountains." And Rossi said, in effect: Now you understand; that's it—that's what I'm trying to do. All of a sudden, the architect did not have to invent. Robert Stern, for example, has often said that he is not, and has never pretended to be, the kind of form-giver that the modern architectural heroes were. Instead, he wanted to learn how to build correctly, or at least finally came to do so.

Stern was Venturi's first backer outside of Philadelphia. He dragged me, protesting, down to Philadelphia to see Venturi's work in 1964 or so. Like all of my generation, my first reaction was anger. But it's not the only time that students have made me see things, made me go and look.

When Stern himself came to design, he based his work very

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closely on the Shingle Style. Then he took that idea of using the vernacular and projected it one step more, in what I think is almost his most important project: his Subway Suburb for the South Bronx of 1976.

This goes right to the question of how to handle destroyed urban areas. In the burned-out South Bronx, where the land is worth nothing, where nobody wants to be, all the utilities are there underground. Stern says, these people want what all Americans want. They want a single family house, and they want it in traditional groupings on streets, with perhaps a green in the middle. So he lays it out that way, exactly the opposite of the International style grouping. Where, for example, the International style planning that destroyed so much of New Haven ignored the vernacular frontal gable houses and the streets that were so well shaped, Stern exploits them—using the gables facing the street, the porches, the strip of grass, and the trees.

Working for Stern, just before he designed this in 1976, was Andres Duany, who once led my Yale seminar down the streets of New Haven showing how, to my amazement, there really was no reason whatsoever that you could not do it again—that, in fact, there was no membrane between us and the past. Duany said, "Once we did architecture right in America, and now we're doing it wrong," and he was influenced here by Stern. It's out of this mixture of traditional housing, traditional planning

types, and the vernacular, that the famous town of Seaside in the Florida panhandle on the "redneck riviera" took shape throughout the 1980s right up to the present time.

There is a wonderful feeling of architecture mediating between the individual and the vastness of nature in all our greatest works, whatever their scale: at Seaside and in Battery Park City, where Cesar Pelli and the others bring the intractable World Trade Towers down into Lower Manhattan's pyramidal grouping of skyscrapers again, and where the streets with housing run visually right into the heart of the city. You really feel a community is developed there, with the splendor and grandeur of nature around it.

Battery Park City is state-owned, so that the developers ultimately have to obey the laws of the community. The fundamental way in which any city is made is through the law, especially through the zoning code. Seaside is a conspicuous example of the success of a strict zoning code. It is required to give a community a sense of the relationship of everything to everything else. A good many architects, the persistently "modern" architects, hate the code and try to get around it. But it is fundamental, and it's touching how important that code is.

The best image of the city and the law is shaped around exactly that: it's the so-called *Allegory of Good Government* in the Palazzo Pubblico in Siena and was painted in the

1330s and 1340s, just before the Black Death. There is the city, all hard-edged and cubical, with all the buildings laid out in a close vernacular relationship to each other. Then there is the landscape. The hard edge of the city wall cuts—as Homer felt, hubristically—into the softness and gentleness of the land, but they balance each other. And above the two, right at the moment of balance, is the fundamental image of law, of security and good government, which makes it possible for the peasants to beat the grain in peace down in the fields, and for the townsfolk to walk safely through their town and to dance in the square on the foreground.

In the accompanying fresco, an *Allegory of Bad Government*—which looks like most of our cities today—everything is falling apart in the background, and the citizens are getting mugged in the foreground. So architecture is correctly seen as the expression of society's capacity to protect the individual by community structures. And this includes of course preservation law. This is the law that has triumphed over all attempts to make preservation and zoning impossible. So in Siena the commune is shown seated in majesty holding a long cord, onto which each citizen of the town holds. That cord is the law, to which all voluntarily acquiesce, in order that they can live together in peace—which is the figure in white who dominates the center of the wall. As in all communities, the law is the fundamental basis for the freedom of the individual within it. ●

The Incongruous Urban Angler

Roger Starr

My father, who owned and ran a barge company in New York, told me more than once that New York harbor waters were so full of life-destroying chemicals and noxious germs that his wooden vessels were safe from the worms that in cleaner rivers would eat their exposed timbers. Perhaps the memory of this description made me scoff at recent reports that, over the years, the construction of new sewage treatment plants, the decline in local and trans-ocean shipping, and the closing of a copper refinery in Brooklyn had so purged the waters that sportfishing in the harbor's center was becoming a popular pastime.

Not necessarily that successful anglers bring their catch home to eat or to feed to their cats. The thrill is sporting rather than culinary. Although some fishermen lose interest in their sport if they are unable to eat what they land, my son Adam and I do not share this disposition, and so I suggested to him that he accompany me in an effort to test New York City's waters.

We communicated with Captain Joseph Shastay of Jersey City—said by a knowledgeable acquaint-

tance of ours to be the sole full-time sportfishing guide in New York City waters—who agreed to meet us at the dock at Twenty-third Street and the East River at 8 AM. When the day came, I was on time, but, perhaps disoriented by the promise of catching healthy sport fish in waters I had known as too sordid even for worms, I took two circuits of the parking lot between Twenty-third and Twenty-fourth streets before I recognized that the khaki-clad man who had been sitting on the dock reading the *Wall Street Journal* was my son. We stood amongst the parked cars, looked at the slips filled with pleasure boats and rental yachts of varied sizes and conditions of cleanliness, and saw

no one who resembled a fishing guide.

The possibility of a hoax was beginning to grow in my mind when a 19-foot Mako—a center-console fishing boat powered by a substantial outboard motor—turned the corner of the Twenty-third Street pier. It bristled with fishing rods held in perpendicular holders—all presided over by the very model of a sportfishing guide: a man in his thirties, concealing his face behind the early stages of a reddish-brown beard and a fisherman's billed cap. Following hasty introductions, we boarded the Mako and headed downstream, pushed along by the East River's hearty current.



CULVER PICTURES

At some time in their careers, addicted anglers will permit themselves to acknowledge, often with a touch of embarrassment, that they do indeed notice the scenery. As the vista of the harbor opened up, I marveled at the view—and at how much had changed. The Statue of Liberty and Ellis Island were, of course, permanent landmarks. So were the distant green slopes of Staten Island, the towers of Lower Manhattan, and Governor's Island. But the whole of Battery Park City was something new and spectacular, as was the New Jersey waterfront, once a dismal collection of warehouses and broken-down piers, now replaced by new housing complexes and a suprisingly handsome railroad terminal.

The biggest change, of course, is on the surface of the harbor, which I can remember as once so crowded with work boats—ferries, coal barges, cargo lighters, railroad car floats, deck scows and ocean-going vessels—that there was little room for pleasure craft. In those days, tugboat captains were expert at cursing misplaced yachtsmen out of the way. Now that same water was all but empty.

After Captain Shastay had approached two anchored fishing boats and consulted with his electronic advisory appliances on the presence of fish in the 35 feet of water beneath his keel, he dropped anchor, handed Adam and me rods, and baited our hooks with slices of mossbunker. This relative of the herring has a very oily body and is netted in great numbers off

the East Coast—especially New Jersey. Mossbunker is not eaten: its oil is extracted and used in paint or, dried, as fertilizer. No one who has ever approached a docked purse seiner which has captured large shoals of such fish by encircling them in its enormous net needs to be warned about the pungency of mossbunker flesh.

We used a six- or eight-ounce sinker to hold our bait on or near the bottom against the strong ebbing tide. The captain told us to keep a heavy reel drag on the lines and to raise our rods sharply at the faintest sensation of something moving or snatching at the bait.

As we sat and waited for a bite, I recollected from the days when I worked with my father's barges that many so-called "captains" who lived in the small, bare cabin at the stern of each wooden vessel actually did fish way back then. They trailed a fishing line behind the barge when it was under tow, fastening the near end to a nail with a bell-like warning device, which they expected to rouse them in time to pull in their dinner. They hoped to catch tomcod, small relatives of the fish that Kipling made famous in *Captains Courageous*, and which spawned in the winter under the Hudson River ice.

But that this unhygienic system for feeding oneself—so repugnant to my father—had turned into fishing for sport seemed preposterous to me. The substantial cost of hiring captain and boat, and the intense seriousness with which our captain went about his business,

struck me as slightly fantastic. To make matters even less congruent with the New York of my younger days, Adam had brought a cellular phone with him, and once his bait settled on the bottom, he began conversing with one of his financial colleagues, high in a nearby office building.

My skepticism melted entirely within minutes, when my son pulled in our first fish. It was a bluefish, as fresh and shiny as though from the purest ocean. And that was only the beginning—at least for Adam. He had developed the requisite sensibility to the light "tap" to which Captain Shastay had alerted us, and by the time I had developed a barely comparable level of skill, we had lost count of the bluefish and striped bass that we'd pulled into the boat.

The largest bass—caught, naturally, by my son, now in his forties, who has been instructing me on the finer points of angling since his twelfth birthday—measured 27 inches in length: impressive, but not a "keeper." Keepers in New York waters downstream of the Tappan Zee Bridge must be 36 inches long. We would not, I hasten to add, keep any fish anyway: according to the State Department of Conservation, one should eat no more than one portion per month of bluefish or striped bass caught in New York Harbor—which, to me, is a polite way of suggesting that it is better not to eat New York harbor fish at all.

By the time the tidal current went slack and the rapacity of the fish

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was satisfied, I had caught and released what seemed to me a fair share. They included a big striped bass, though not so large as Adam's, and a bluefish that fought like a tarpon. The captain generously estimated its weight at ten pounds when I finally brought it aboard.

After raising anchor, the captain turned a full 180 degrees, and we set off past the excursion boats and the Statue of Liberty, heading for the bonny green hills of Staten Island. Part way there, we stopped within twenty feet of a steel deck scow that brought back to me an almost forgotten local custom. Belonging to the New York Trap Rock Company, the scow bore what I took to be the name of a longtime company employee. In my barge days, we had built 12 such vessels of wood for that very company—quite possibly the last wood scows ever built in New York Harbor. Our contract stipulated that on the completion of each vessel, there would be a reception at our shipyard. A recorded version of the "Star-Spangled Banner" would be played, and the wife of the employee-honoree would endeavor to break a bottle of champagne, supplied by us, against the bow of the vessel.

While I was lost in this recollection, Captain Shastay instructed Adam, who firmly believes that no fish is really caught until it has been hooked by means of a fly rod, to place a streamer fly just at the point where the angled front plates of the scow reached the water. He was to let tidal currents take the fly

under the scow itself, where Captain Shastay believed the nocturnal striped bass were hiding from the sun. Sure enough, a small striper responded to the fly. Further casts, though, however impeccably placed, failed to produce any action.

At length we moved on, passing a tugboat that was making up a tow of six or eight "light" scows, and headed toward Brooklyn and the Narrows. As we crossed the open space between Brooklyn and Staten Island, the breeze freshened noticeably, the boat slapped the waves, and my companions sighted, at a great distance, flocks of sea birds diving into the water between two old piers at what had been the Brooklyn Army Base. During World War II, it had been one of the harbor's busy spots; Liberty and Victory ships were loaded there, while their crews tried not to think about the Atlantic crossing that lay ahead.

The wheeling and diving of seabirds, terns especially, suggest the presence of baitfish near the surface—in turn suggesting the presence of sharp-toothed bluefish chasing them from below. But we soon recognized that the terns were not funnelling (the formation in which they fly when truly on the hunt); the splash of feeding fish was nowhere to be seen; and the gulls, who like to comment hoarsely on a real confrontation, were silent. The bluefish, in short, were elsewhere. We ghosted past the decaying concrete and steel docks of the abandoned army base, mementos of courage, death, and

destruction as troubling as the overgrown battlefields on the other side of the ocean to which they had dispatched their cargoes, calculated in quantity to make up for the probable losses they would suffer—in ships, tanks, munitions, and human bodies—on the way.

We picked up speed and turned back toward the heart of the harbor. Now that we were out of the wind, the sun felt hotter. With the incoming tide running even more sharply, we dropped anchor on the Manhattan side of the East River, just below the square prow of one of the city's two unused prison barges, gray monstrosities of steel with small barred portholes. Captain Shastay once again suggested casting to the line where steel hull met river water, to allow the current to take Adam's fly and my spinning lure under the prison barge where the striped bass were thought to be lurking. But fortune turned against us. Though Adam had a good hit, he did not hook the fish, which continued to irritate him for the remainder of the afternoon. For my part, instead of releasing my line at the end of the casting stroke, I managed to release the spinning rod altogether. Somehow one of my two companions got a grip on the line and laboriously retrieved it from the river, while our captain tried to make me feel less clumsy by claiming that he loses a dozen rods a summer that way.

Discouraged by my ineptitude, I reminded myself that Twenty-third Street was only a short haul away, made even shorter by what

was now the rising tide. Adam, however, still humiliated by his failure to hook his fish under the prison barge, wanted another shot, off a rockpile surmounted by a beacon in the East River. I had high hopes that Adam would catch a fish immediately, freeing us to turn back to Twenty-third Street and to give my skin a much-needed respite from the sun.

No such luck. Instead, I hooked a splendid bluefish that fought vigorously, with the tide in his favor. Remarkably, this exercise (it was, after all, a ten-pound fish, according to Captain Shastay) dissipated my weariness. I dropped my line again, hoping, nonetheless, that Adam would catch the next fish, and almost instantly I was engaged with another fish, also ten pounds. I recognized then that if we were ever to get home that evening, I would have to take a stand: I announced that I'd had enough excitement for the day and would fish no more. By the grace of God, the next fish was Adam's, and a very good one too. Because it was caught on bait rather than a fly, it did not fully compensate him for the lost fish under the prison barge; however, it did enable us to end the day on a note of triumph. So we headed home. ●



ANDREW BORDMAN

A Traveller's New York, 1842

Charles Dickens

Early nineteenth-century America drew from the Old World travellers fascinated by the New World's young, unprecedented experiment in democracy. Of those who came to inspect the new society and its institutions—Crèvecoeur, Frances Trollope, and Tocqueville—Charles Dickens, then only thirty, was the most renowned. His American Notes, from which this article is excerpted, was published within months of his return home in 1842. Shocked by much he saw—above all, slavery—he wrote to a friend, “I am a lover of Freedom, disappointed.”

The beautiful metropolis of America is by no means so clean a city as Boston. . . . The great promenade and thoroughfare, as most people know, is Broadway; a wide and bustling street, which, from the Battery Gardens to its opposite termination in a country road, may be four miles long. Shall we sit down in an upper floor of the Carlton House Hotel (situated in the best part of this main artery of New York), and when we are tired of looking down upon the life below, sally forth arm-in-arm and mingle with the stream?

Warm weather! The sun strikes upon our heads at this open win-

dow, as though its rays were concentrated through a burning-glass; but the day is in its zenith, and the season an unusual one. Was there ever such a sunny street as this Broadway! The pavement stones are polished with the tread of feet until they shine again; the red bricks of the houses might be yet in the dry, hot kilns; and the roofs of those omnibuses look as though, if water were poured on them, they would hiss and smoke and smell like half-quenched fires. No stint of omnibuses here! Half a dozen have gone by within as many minutes. Plenty of hackney cabs and coaches too; gigs, phaetons, large-wheeled tilburies, and private carriages—rather of a clumsy make, and not very different from the public vehicles, but built for the heavy roads beyond the city pavement. Negro coachmen and white; in straw hats, black hats, white hats, glazed caps, fur caps; in coats of drab, black, brown, green, blue, nankeen, striped jean and linen; and there, in that one instance (look while it passes, or it will be too late), in suits of livery. Some southern republican that, who puts his blacks in uniform, and swells with Sultan pomp and power. . . .

Heaven save the ladies, how they dress! We have seen more colors in these ten minutes than we should have seen elsewhere in as many days. What various parasols! What rainbow silks and satins! What pinking of thin stockings, and pinching of thin shoes, and fluttering of ribbons and silk tassels, and display of rich cloaks with gaudy hoods and linings! The young gen-

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tllemen are fond . . . of turning down their shirt-collars and cultivating their whiskers, especially under the chin; but they cannot approach the ladies in their dress or bearing, being, to say the truth, humanity of quite another sort. Byrons of the desk and counter, pass on, and let us see what kind of men those are behind ye. . . .

Irishmen both! You might know them, if they were masked, by their long-tailed blue coats and bright buttons, and their drab trousers, which they wear like men well used to working dresses, who are easy in no others. It would be hard to keep your model republics going, without the countrymen and countrywomen of those two laborers. For who else would dig, and delve, and drudge, and do domestic work, and make canals and roads, and execute great lines of Internal Improvement! . . .

They are brothers, those men. One crossed the sea alone, and working very hard for one half year, and living harder, saved funds enough to bring the other out. That done, they worked together, side by side, contentedly sharing hard labor and hard living for another term, and then their sisters came, and then another brother, and lastly, their old mother. . . .

This narrow thoroughfare, baking and blistering in the sun, is Wall Street. . . . Many a rapid fortune has been made in this street, and many a no less rapid ruin. Some of these very merchants whom you see hanging about here now have locked up money in their strong-



Five Points stood where Worth, Baxter, and Park streets now meet.

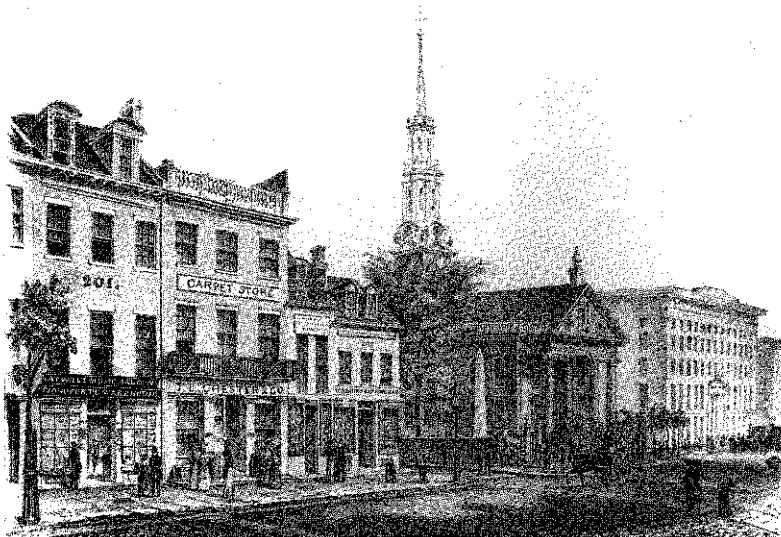
boxes, like the man in the Arabian Nights, and opening them again, have found but withered leaves. Below, here by the waterside, where the bowsprits of ships stretch across the footway, and almost thrust themselves into the windows, lie the noble American vessels which have made their packet service the finest in the world. They have brought hither the foreigners who abound in all the streets: not, perhaps, that there are more here than in other commercial cities; but elsewhere, they have particular haunts, and you must find them out; here, they pervade the town.

We cross Broadway again, gaining some refreshment from the heat in the sight of the great blocks of clean ice which are being carried into shops and bar-rooms, and the pineapples and watermelons profusely displayed for sale. Fine streets of spacious houses here,

you see! Wall Street has furnished and dismantled many of them very often—and here a deep green leafy square. . . .

What is this dismal-fronted pile of bastard Egyptian, like an enchanter's palace in a melodrama!—a famous prison, called the Tombs. Shall we go in?

So. A long, narrow, lofty building, stove-heated as usual, with four galleries, one above the other, going round it, and communicating by stairs. Between the two sides of each gallery, and in its center, a bridge, for the greater convenience of crossing. On each of these bridges sits a man: dozing or reading, or talking to an idle companion. On each tier are two opposite rows of small iron doors. They look like furnace-doors, but are cold and black, as though the fires within had all gone out. . . . A man with keys appears, to show us



OLIVER PICTURES

Broadway

round. A good-looking fellow, and, in his way, civil and obliging.

"Are those black doors the cells?"

"Yes."

"Are they all full?"

"Well, they're pretty nigh full, and that's a fact, and no two ways about it."

"Those at the bottom are unwholesome, surely?"

"Why, we do only put colored people in 'em. That's the truth."

"When do the prisoners take exercise?"

"Well, they do without it pretty much."

"Do they never walk in the yard?"

"Considerable seldom."

"Sometimes, I suppose?"

"Well, it's rare they do. They keep pretty bright without it."

"But suppose a man were here for a twelvemonth. I know this is only a prison for criminals who are

charged with grave offenses, while they are awaiting their trial or are under remand, but the law here affords criminals many means of delay. What with motions for new trial, and in arrest of judgment, and what not, a prisoner might be here for twelve months, I take it, might he not?"

"Well, I guess he might."

"Do you mean to say that in all that time he would never come out at that little iron door for exercise?"

"He might walk some, perhaps—not much."

"Will you open one of the doors?"

"All, if you like."

The fastenings jar and rattle, and one of the doors turns slowly on its hinges. Let us look in. A small bare cell, into which the light enters through a high chink in the wall. There is a rude means of washing, a table, and a bedstead. Upon the

latter sits a man of sixty; reading. He looks up for a moment; gives an impatient dogged shake; and fixes his eyes upon his book again. As we withdraw our heads, the door closes on him and is fastened as before. This man has murdered his wife, and will probably be hanged.

"How long has he been here?"

"A month."

"When will he be tried?"

"Next term."

"What is that?"

"Next month."

"In England, if a man be under sentence of death, even, he has air and exercise at certain periods of the day."

"Possible?"

With what stupendous and untranslatable coolness he says this, and how loungingly he leads on to the women's side: making, as he goes, a kind of iron castanet of the key and the stair-rail!

Each cell door on this side has a square aperture in it. Some of the women peep anxiously through it at the sound of footsteps; others shrink away in shame. For what offense can that lonely child, of ten or twelve years old, be shut up here? Oh! that boy? He is the son of the prisoner we saw just now; is a witness against his father; and is detained here for safe keeping, until the trial; that's all.

But it is a dreadful place for the child to pass the long days and nights in. This is rather hard treatment for a young witness, is it not? —What says our conductor?

Urbanities

"Well, it an't a very rowdy life, and that's a fact!"

Again he clinks his metal castanet, and leads us leisurely away. I have a question to ask him as we go.

"Pray, why do they call this place the Tombs?"

"Well, it's the cant name."

"I know it is. Why?"

"Some suicides happened here, when it was first built. I expect it come about from that."

"I saw just now, that that man's clothes were scattered about the floor of his cell. Don't you oblige the prisoners to be orderly, and put such things away?"

"Where should they put 'em?"

"Not on the ground surely. What do you say to hanging them up?"

He stops, and looks round to emphasize his answer:

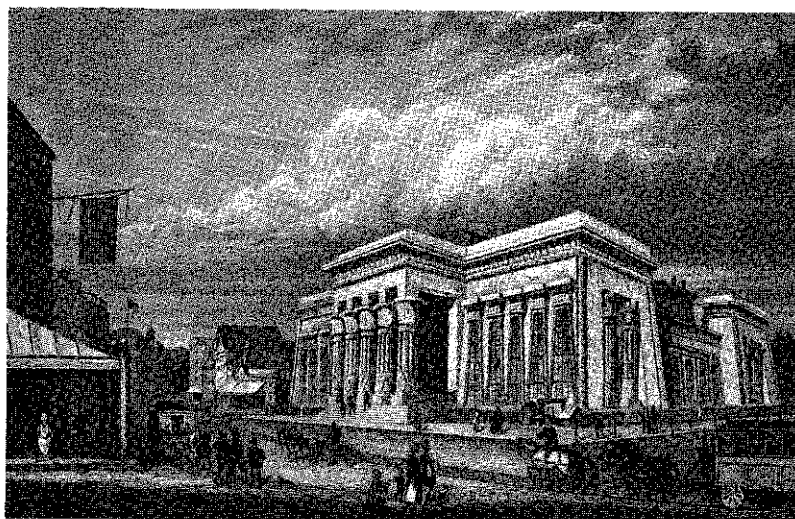
"Why, I say that's just it. When they had hooks they would hang themselves, so they're taken out of every cell, and there's only the marks left where they used to be!"

The streets and shops are lighted now, and as the eye travels down the long thoroughfare, dotted with bright jets of gas, it is reminded of Oxford Street or Piccadilly. . . . But how quiet the streets are! Are there no itinerant bands, no wind or stringed instruments? No, not one. By day, are there no Punches, Fantoccinis, dancing-dogs, jugglers, conjurers, orchestrinas, or even barrel-organs? No, not one. Yes, I remember one. One barrel-organ and a dancing-monkey—sportive by nature, but fast fading into a dull, lumpish monkey, of the Utilitarian school. Beyond that, nothing lively; no, not so much as a white mouse in a twirling cage.

Are there no amusements? Yes. There is a lecture-room across the way, from which that glare of light proceeds, and there may be evening service for the ladies thrice a week, or oftener. For the young gentlemen, there is the counting-house, the store, the bar-room: the latter, as you may see through these windows, pretty full. Hark! To the clinking sound of hammers breaking lumps of ice, and to the cool gurgling of the pounded bits, as, in the process of mixing, they are poured from glass to glass! No amusements? What are these suckers of cigars and swallows of strong drinks, whose hats and legs we see in every possible variety of twist, doing, but amusing themselves? What are the fifty newspapers, which those precocious urchins are bawling down the street, and which are kept filed within, what are they but amusements? Not vapid, waterish amusements, but

good strong stuff; dealing in round abuse and blackguard names; pulling off the roofs of private houses, as the Halting Devil did in Spain; pimping and pandering for all degrees of vicious taste, and gorging with coined lies the most voracious maw; imputing to every man in public life the coarsest and the vilest motives; scaring away from the stabbed and prostrate body-politic, every Samaritan of clear conscience and good deeds; and setting on, with yell and whistle and the clapping of foul hands, the vilest vermin and worst birds of prey. No amusements!

Let us go on again; and . . . plunge into the Five Points. But it is needful, first, that we take as our escort these two heads of the police, whom you would know for sharp and well-trained officers if you met them in the Great Desert. So true it is that certain pursuits, wherever carried on, will stamp



The old Tombs prison

CULVER PICTURES

Urbanities

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men with the same character. These two might have been begotten, born, and bred in Bow Street.

We have seen no beggars in the streets by night or day; but of other kinds of strollers, plenty. Poverty, wretchedness, and vice are rife enough where we are going now.

This is the place: these narrow ways, diverging to the right and left, and reeking everywhere with dirt and filth. Such lives as are led here bear the same fruits here as elsewhere. The coarse and bloated faces at the doors have counterparts at home, and all the wide world over. Debauchery has made the very houses prematurely old. See how the rotten beams are tumbling down, and how the patched and broken windows seem to scowl dimly, like eyes that have been hurt in drunken frays. . . .

So far, nearly every house is a low tavern; and on the bar-room walls are colored prints of Washington, and Queen Victoria of England, and the American Eagle. Among the pigeon-holes that hold the bottles are pieces of plate-glass and colored paper, for there is, in some sort, a taste for decoration, even here. And as seamen frequent these haunts, there are maritime pictures by the dozen: of partings between sailors and their lady-loves, portraits of William of the ballad, and his Black-Eyed Susan; of Will Watch, the Bold Smuggler; of Paul Jones the Pirate, and the like: on which the painted eyes of Queen Victoria, and of Washington to boot, rest in as strange companionship, as on most of the scenes

that are enacted in their wondering presence.

What place is this, to which the squalid street conducts us? A kind of square of leprous houses, some of which are attainable only by crazy wooden stairs without. What lies beyond this tottering flight of steps, that creak beneath our tread?—a miserable room, lighted by one dim candle, and destitute of all comfort save that which may be hidden in a wretched bed. Beside it, sits a man: his elbows on his knees: his forehead hidden in his hands. "What ails that man?" asks the . . . officer. "Fever," he sullenly replies, without looking up. Conceive the fancies of a fevered brain in such a place as this!

Ascend these pitch-dark stairs, heedful of a false footing on the trembling boards, and grope your way with me into this wolfish den, where neither ray of light nor breath of air appears to come. A negro lad, startled from his sleep by the officer's voice—he knows it well—but comforted by his assurance that he has not come on business, officiously bestirs himself to light a candle. The match flickers for a moment, and shows great mounds of dusty rags upon the ground; then dies away and leaves a denser darkness than before, if there can be degrees in such extremes. He stumbles down the stairs and presently comes back, shading a flaring taper with his hand. Then the mounds of rags are seen to be astir, and rise slowly up, and the floor is covered with heaps of negro women, waking from their sleep: their white teeth chat-

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tering, and their bright eyes glistening and winking on all sides with surprise and fear, like the countless repetition of one astonished African face in some strange mirror.

Mount up these other stairs with no less caution (there are traps and pitfalls here, for those who are not so well escorted as ourselves) into the housetop; where the bare beams and rafters meet overhead, and calm night looks down through the crevices in the roof. Open the door of one of these cramped hutches full of sleeping negroes. Pah! They have a charcoal fire within; there is a smell of singeing clothes, or flesh, so close they gather round the brazier; and vapors issue forth that blind and suffocate. From every corner, as you glance about you in these dark retreats, some figure crawls half-awakened, as if the judgment-hour were near at hand, and every obscene grave were giving up its dead. Where dogs would howl to lie, women, and men, and boys slink off to sleep, forcing the dislodged rats to move away in quest of better lodgings.

Here too are lanes and alleys, paved with mud knee-deep, underground chambers, where they dance and game; the walls bedecked with rough designs of ships, and forts, and flags, and American Eagles out of number: ruined houses, open to the street, whence, through wide gaps in the walls, other ruins loom upon the eye, as though the world of vice and misery had nothing else to show: hideous tenements which

take their name from robbery and murder: all that is loathsome, drooping, and decayed is here. . . .

What is this intolerable tolling of great bells, and crashing of wheels, and shouting in the distance? A fire. And what that deep red light in the opposite direction? Another fire. And what these charred and blackened walls we stand before? A dwelling where a fire has been. It was more than hinted, in an official report, not long ago, that some of these conflagrations were not wholly accidental, and that speculation and enterprise found a field of exertion, even in flames: but be this as it may, there was a fire last night, there are two tonight, and you may lay an even wager there will be at least one tomorrow. So, carrying that with us for our comfort, let us say good night, and climb upstairs to bed.

One day, during my stay in New York, I paid a visit to the different public institutions on Long Island (or Rhode Island: I forget which). One of them is a lunatic asylum. The building is handsome, and is remarkable for a spacious and elegant staircase. The whole structure is not yet finished, but it is already one of considerable size and extent, and is capable of accommodating a very large number of patients.

I cannot say that I derived much comfort from the inspection of this charity. The different wards might have been cleaner and better ordered; I saw nothing of that salutary system which had impressed me so favorably elsewhere; and

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everything had a lounging, listless, madhouse air, which was very painful. The moping idiot, cowering down with long dishevelled hair; the gibbering maniac, with his hideous laugh and pointed finger; the vacant eye, the fierce wild face, the gloomy picking of the hands and lips, and munching of the nails: there they were all, without disguise, in naked ugliness and horror. In the dining-room, a bare, dull, dreary place, with nothing for the eye to rest on but the empty walls, a woman was locked up alone. She was bent, they told me, on committing suicide. If anything could have strengthened her in her resolution, it would certainly have been the insupportable monotony of such an existence.

The terrible crowd with which these halls and galleries were filled so shocked me, that I abridged my stay within the shortest limits, and declined to see that portion of the building in which the refractory and violent were under closer restraint. I have no doubt that the gentleman who presided over this establishment at the time I write of was competent to manage it, and had done all in his power to promote its usefulness: but will it be believed that the miserable strife of party feeling is carried even into this sad refuge of afflicted and degraded humanity? Will it be believed that the eyes which are to watch over and control the wanderings of minds on which the most dreadful visitation to which our nature is exposed has fallen, must wear the glasses of some wretched side in politics? Will it be believed that the governor of such

a house as this, is appointed, and deposed, and changed perpetually, as parties fluctuate and vary, and as their despicable weathercocks are blown this way or that? A hundred times in every week, some new most paltry exhibition of that narrow-minded and injurious party spirit, which is the simoom of America, sickening and blighting everything of wholesome life within its reach, was forced upon my notice; but I never turned my back upon it with feelings of such deep disgust and measureless contempt, as when I crossed the threshold of this madhouse on Long Island.

At a short distance from this building is another called the Alms House, that is to say, the workhouse of New York. This is a large institution also: lodging, I believe, when I was there, nearly a thousand poor. It was badly ventilated, and badly lighted; was not too clean; and impressed me, on the whole, very uncomfortably. But it must be remembered that New York, as a great emporium of commerce, and as a place of general resort, not only from all parts of the States, but from most parts of the world, has always a large pauper population to provide for; and labors, therefore, under peculiar difficulties in this respect. Nor must it be forgotten that New York is a large town, and that in all large towns a vast amount of good and evil is intermixed and jumbled up together. . . .

In another part of the city is the Refuge for the Destitute: an institution whose object is to reclaim

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offenders, male and female, black and white, without distinction; to teach them useful trades, apprentice them to respectable masters, and make them worthy members of society. Its design, it will be seen, is similar to that at Boston, and it is a no less meritorious and admirable establishment. A suspicion crossed my mind during my inspection of this noble charity, whether the superintendent had quite sufficient knowledge of the world and worldly characters; and whether he did not commit a great mistake in treating some young girls, who were to all intents and purposes, by their years and their past lives, women, as though they were little children; which certainly had a ludicrous effect in my eyes and, or I am much mistaken, in theirs also. As the institution, however, is always under a vigilant examination of a body of gentlemen of great intelligence and experience, it cannot fail to be well conducted; and whether I am right or wrong in this slight particular is unimportant to its deserts and character, which it would be difficult to estimate too highly.

In addition to these establishments there are, in New York, excellent hospitals and schools, literary institutions and libraries; an admirable fire department (as indeed it should be, having constant practice), and charities of every sort and kind. In the suburbs there is a spacious cemetery: unfinished yet, but every day improving. The saddest tomb I saw there was "The Strangers' Grave. Dedicated to the different hotels in this city."

There are three principal theaters. Two of them, the Park and the Bowery, are large, elegant, and handsome buildings and are, I grieve to write it, generally deserted. The third, the Olympic, is a tiny show-box for vaudevilles and burlesques. . . . [Its] benches are usually well filled, and [the] theater rings with merriment every night. . . .

The country round New York is surpassingly and exquisitely picturesque. The climate, as I have already intimated, is somewhat of the warmest. What it would be, without the sea breezes which come from its beautiful bay in the evening time, I will not throw myself or my readers into a fever by inquiring.

The tone of the best society in this city is like that of Boston; here and there, it may be, with a greater infusion of the mercantile spirit, but generally polished and refined, and always most hospitable. The houses and tables are elegant; the hours later and more rakish; and there is, perhaps, a greater spirit of contention in reference to appearances, and the display of wealth and costly living. The ladies are singularly beautiful. . . .



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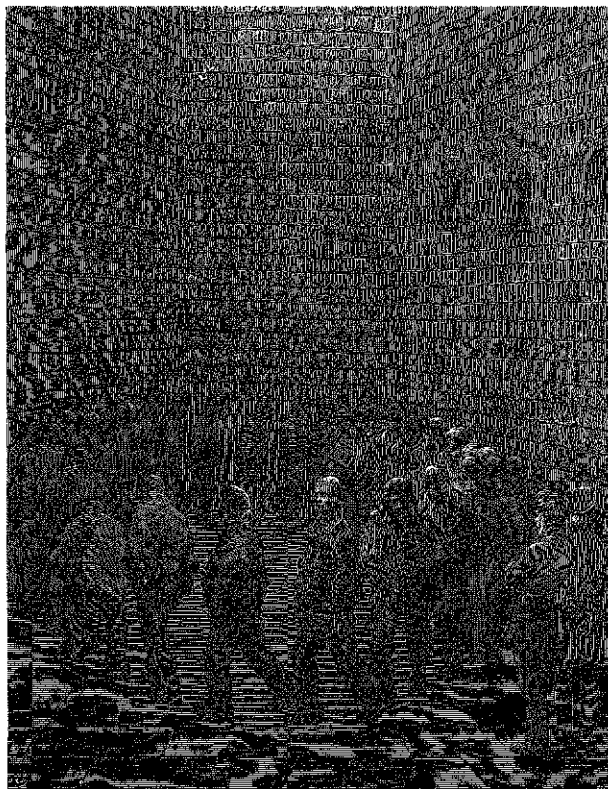
Theodore Dalrymple

"The Knife Went In"

It is a mistake to suppose that all men, or at least all Englishmen, want to be free. On the contrary, if freedom entails responsibility, many of them want none of it. They would happily exchange their liberty for a modest (if illusory) security. Even those who claim to cherish their freedom are rather less enthusiastic about taking the consequences of their actions. The aim of untold millions is to be free to do exactly as they choose and for someone else to pay when things go wrong.

In the past few decades, a peculiar and distinctive psychology has emerged in England. Gone are the civility, sturdy independence, and admirable stoicism that carried the English through the war years. It has been replaced by a constant whine of excuses, complaint, and special pleading. The collapse of the British character has been as swift and complete as the collapse of British power.

Listening as I do every day to the accounts people give of their lives, I am struck by the very small part in them which they ascribe to their own efforts, choices, and actions. Implicitly, they disagree with Bacon's famous dictum that "chiefly the mould of a man's for-



CULVER PICTURES

London prisoners

ture is in his own hands." Instead, they experience themselves as putty in the hands of fate.

It is instructive to listen to the language they use to describe their lives. The language of prisoners in particular teaches much about the dishonest fatalism with which people seek to explain themselves to others, especially when those others are in a position to help them in some way. As a doctor who sees patients in a prison once or twice a week, I am fascinated by prisoners' use of the passive mood and other modes of speech that are supposed

to indicate their helplessness. They describe themselves as the marionettes of happenstance.

Not long ago, a murderer entered my room in the prison shortly after his arrest to seek a prescription for the methadone to which he was addicted. I told him that I would prescribe a reducing dose, and that within a relatively short time my prescription would cease. I would not prescribe a maintenance dose for a man with a life sentence.

"Yes," he said, "it's just my luck to be here on this charge."

Luck? He had already served a dozen prison sentences, many of them for violence, and on the night in question had carried a knife with him, which he must have known from experience that he was inclined to use. But it was the victim of the stabbing who was the real author of the killer's action: if he hadn't been there, he wouldn't have been stabbed.

My murderer was by no means alone in explaining his deed as due to circumstances beyond his control. As it happens, there are three stabbers (two of them unto death) at present in the prison who used precisely the same expression when describing to me what happened. "The knife went in," they said when pressed to recover their allegedly lost memories of the deed.

The knife went in—unguided by human hand, apparently. That the long-hated victims were sought out, and the knives carried to the scene of the crimes, was as nothing compared with the willpower possessed by the inanimate knives themselves, which determined the unfortunate outcome.

It might be objected by psychologists, of course, that the deeds of these men were so heinous that it was a natural and perhaps even necessary psychic defense for them to ascribe the deaths of their victims to forces beyond their control: too swift an acknowledgment of responsibility would result in a total collapse of their morale and, possibly, in suicide. But the evasion in their own minds of the responsi-

bility for their deeds was in no way different from that exhibited by lesser criminals: offenders against property or, more accurately, against the owners of property.

A few examples will suffice. A prisoner, recently convicted for the umpteenth time, came to me to complain that he had been depressed ever since his trouble came on him again. And what, I asked, was this trouble which came on him periodically? It was breaking and entering churches, stealing their valuables, and burning them down to destroy the evidence.

And why churches? Was it that he had been dragged as a child to tedious services by hypocritical parents and wished to be revenged upon religion, perhaps? Not at all; it was because in general churches were poorly secured, easy to break into, and contained valuable objects in silver.

Oddly enough, he did not deduce from this pragmatic, reasonable, and honest explanation of his choice of ecclesiastical burglary as a career that he was himself responsible for the trouble which mysteriously overtook him every time he was released from prison: he blamed the church authorities for the laxness of their security, which first caused and then reinforced his compulsion to steal from them. Echoing the police, who increasingly blame theft on the owners of property—for failing to take the proper precautions against its misappropriation—rather than on those who actually carry out the theft, the ecclesiastical burglar said

that the church authorities should have known of his proclivities and taken the necessary measures to prevent him from acting upon them.

Another burglar demanded to know from me why he repeatedly broke into houses and stole VCRs. He asked the question aggressively, as if "the system" had so far let him down in not supplying him with the answer; as if it were my duty as a doctor to provide him with the buried psychological secret which, once revealed, would in and of itself lead him unfailingly on the path of virtue. Until then, he would continue to break into houses and steal VCRs (when at liberty to do so), and the blame would be mine.

When I refused to examine his past, he exclaimed, "But something must make me do it!"

"How about greed, laziness, and a thirst for excitement?" I suggested. "What about my childhood?" he asked.

"Nothing to do with it," I replied firmly.

He looked at me as if I had assaulted him. Actually, I thought the matter more complex than I was admitting, but I did not want him to misunderstand my main message: that he was the author of his own deeds.

Another prisoner claimed to be under so strong a compulsion to steal cars that it was irresistible—an addiction, he called it. He stole up to forty vehicles a week, but nevertheless considered himself a fundamentally good person because he was never violent

towards anyone, and all the vehicles he stole were insured, and therefore the owners would lose nothing. But regardless of any financial incentive to do so, he contended, he stole cars for the excitement of it: if prevented for a few days from indulging in this activity, he became restless, depressed, and anxious. It was a true addiction, he repeated at frequent intervals, in case I should have forgotten in the meantime.

Now the generally prevalent conception of an addiction is of an illness, characterized by an irresistible urge (mediated neurochemically and possibly hereditary in nature) to consume a drug or other substance, or to behave in a repetitively self-destructive or anti-social way. An addict can't help himself, and because his behavior is a manifestation of illness, it has no more moral content than the weather.

So in effect what my car thief was telling me was that his compulsive car-stealing was not merely not his fault, but that the responsibility for stopping him from behaving thus was mine, since I was the doctor treating him. And until such time as the medical profession found the behavioral equivalent of an antibiotic in the treatment of pneumonia, he could continue to cause untold misery and inconvenience to the owners of cars and yet consider himself fundamentally a decent person.

That criminals often shift the locus of responsibility for their acts elsewhere is illustrated by some of the

expressions they use most frequently in their consultations with me. Describing, for example, their habitual loss of temper, which leads them to assault whomever displeases them sufficiently, they say, "My head goes," or "My head just went."

What exactly do they mean by this? They mean that they consider themselves to suffer from a form of epilepsy or other cerebral pathology whose only manifestation is involuntary rage, of which it is the doctor's duty to cure them. Quite often they put me on warning that unless I find the cure for their behavior, or at least prescribe the drugs they demand, they are going to kill or maim someone. The responsibility when they do so will be mine, not theirs, for I knew what they were going to do, yet failed to prevent it. So their putative illness has not only explained and, therefore, absolved them from past misconduct, but it has exonerated them in advance from all future misconduct.

Moreover, by warning me of their intention to carry out further assaults, they have set themselves up to be victims rather than perpetrators. They told the authorities (me) what they were going to do, and yet the authorities (I, again) did nothing; and so when they return to prison after committing a further horrible crime, they will feel aggrieved that "the system," represented by me, has once again let them down.

But were I to take the opposite tack and suggest preventive detention

until such time as they could control their temper, they would be outraged at the injustice of it. What about habeas corpus? What about innocence until guilt is proven? And they deduce nothing from the fact that they can usually control their tempers in the presence of a sufficiently opposing force.

Violent criminals often use an expression auxiliary to "My head went" when explaining their deeds: "It wasn't me." Here is the psychobabble of the slums, the doctrine of the "Real Me" as refracted through the lens of urban degradation. The Real Me has nothing to do with the phenomenal me, the me that snatches old ladies' bags, breaks into other people's houses, beats up my wife and children, or repeatedly drinks too much and gets involved in brawls. No, the Real Me is an immaculate conception, untouched by human conduct: it is that unsailable core of virtue that enables me to retain my self-respect whatever I do. What I am is not at all determined by what I do; and insofar as what I do has any moral significance at all, it is up to others to ensure that the phenomenal me acts in accordance with the Real Me.

Hence one further expression frequently used by prisoners: "My head needs sorting out." The visual image they have of their minds, I suspect, is of a child's box of bricks, piled higgledy-piggledy, which the doctor, rummaging around in the skull, has the capacity and the duty to put into perfect order, ensuring that henceforth all conduct will automatically be honest, law-abiding, and economically advanta-

Oh, to be in **England**



CULVER PICTURES

A London mugging

geous. Until this sorting out is done, constructive suggestions—learn a skill, enroll in a correspondence course—are met with the refrain, “I will—once my head’s sorted out.”

At the very heart of all this passivity and refusal of responsibility is a deep dishonesty—what Sartre would have called bad faith. For however vehemently criminals try to blame others, and whatever appearance of sincerity they manage to convey while they do so, they know at least some of the time that what they say is untrue.

That’s clear in the habit drug addicts often have of altering their language according to their interlocutors. To doctors, social workers, and probation officers—to all who might prove useful to them either in a prescribing or a testimonial capacity—they emphasize their overwhelming and overpowering craving for a drug, the intolerability of the withdrawal effects

from it, the deleterious effects it has upon their character, judgment, and behavior. Among themselves, though, their language is quite different, optimistic rather than abject: it is about where you can obtain the best-quality drug, where it is cheapest, and how to heighten its effects.

I suspect (though I cannot prove, except by anecdote) that it is the same among prisoners. It is hardly a new observation that prisons are the universities of crime. Yet prisoners invariably describe to doctors and psychologists their difficult upbringings (which they bring out for the occasion almost like heirlooms), their violent or absent fathers, their poverty and all the difficulties and disadvantages to which urban flesh is heir. Among themselves, though, what must be the discourse, as they establish contacts, learn new techniques—and deride the poor fools who earn an honest living but never grow rich?

That their outlook is dishonest and self-serving is apparent in their attitude to those whom they believe to have done them wrong. For example, they do not say of the policemen who they allege (often plausibly) have beaten them up, “Poor cops! They were brought up in authoritarian homes and now project the anger that is really directed at their bullying fathers onto me. They need counseling. They need their heads sorted out.” On the contrary, they say, with force and explosive emotion, “The bastards!” They assume that the police act out of free, if malevolent, will.

The prisoner’s public presentation of himself often takes on a curious resemblance to the portrayal of him by liberals. “You want me to be a victim of circumstance?” he seems to say. “All right, I’ll be a victim for you.” With repetition of his story, he comes to believe it, at least some of the time and with part of his mind. Denial of guilt—both juridical and moral—thus becomes possible in the presence of the most minute memory of the circumstances of the crime.

Man has always had a capacity for deceit of others and for self-deception, of course. It was Nietzsche who famously observed that pride and self-regard have no difficulty in overcoming memory; and every psychic defense mechanism known to the modern psychologist makes its appearance somewhere in Shakespeare. Yet one’s impression nonetheless is that the ease with which people discard responsibility for what they have done—their intellectual and emotional dishon-

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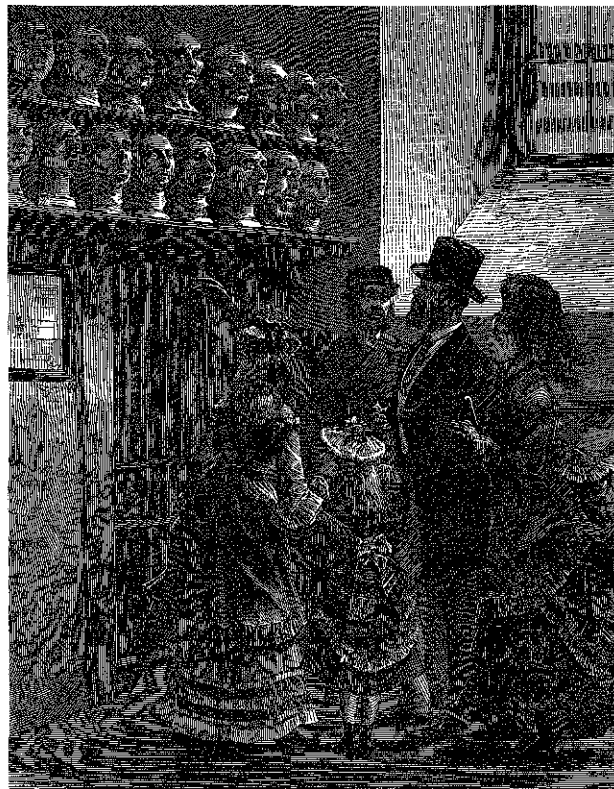
esty about their own actions—has increased greatly in the last few decades.

Why should this occur just when, objectively speaking, freedom and opportunity for the individual have never been greater?

In the first place, there is now a much enlarged constituency for liberal views: the legions of helpers and carers, social workers and therapists, whose incomes and careers depend crucially on the supposed incapacity of large numbers of people to fend for themselves or behave reasonably. Without the supposed powerlessness of drug addicts, burglars, and others in the face of their own undesirable inclinations, there would be nothing for the professional redeemers to do. They have a vested interest in psychopathology, and their entire therapeutic world view of the patient as the passive, helpless victim of illness legitimizes the very behavior from which they are to redeem him. Indeed, the tangible advantages to the wrongdoer of appearing helpless are now so great that he needs but little encouragement to do so.

In the second place, there has been a widespread dissemination of psychotherapeutic concepts, in however garbled or misinterpreted a form. These concepts have become the currency even of the uneducated. Thus the idea has become entrenched that if one does not know or understand the unconscious motives for one's acts, one is not truly responsible for them.

96 This, of course, applies only to



COVER PICTURES

Viewing Newgate Prison's casts of criminals' heads.

those acts which someone regards as undesirable: no one puzzles over his own meritoriousness. But since there is no single ultimate explanation of anything, one can always claim ignorance of one's own motives. Here is a perpetual getout.

Third, there has been a widespread acceptance of sociological determinism, especially by the guilt-laden middle classes. Statistical association has been taken indiscriminately as proving causation: thus, if criminal behavior is more common among the poorer classes, it must be poverty that causes crime.

Nobody, of course, experiences himself as sociologically determined—certainly not the sociologist. And few of the liberals who espouse such a viewpoint recognize its profoundly dehumanizing consequences. If poverty is the cause of crime, burglars do not decide to break into houses any more than amoebae decide to move a pseudopod towards a particle of food. They are automata—and presumably should be treated as such.

Here the subliminal influence of Marxist philosophy surfaces: the notion that it is not the conscious-

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ness of men that determines their being, but, on the contrary, their social being that determines their consciousness. If this were so, men would still live in caves; but it has just enough plausibility to shake the confidence of the middle classes that crime is a moral problem, not just a problem of morale.

Into this rich brew of uncertainty and equivocation, social historians are inclined to add their dash of seasoning, pointing out that the middle classes saw crime as a moral problem even in the eighteenth century, when for many malefactors it really was quite another thing, since sometimes the only way for them to obtain food was to steal it. To say this, of course, is to overlook the fundamental change in life chances that has occurred since then. In Georgian London, for example, the life expectancy at birth was about 25 years, whereas it is now 75. At the height of the Victorian era, the life expectancy of the Royal Family was 50 percent lower than that of the very poorest section of the population today. Surely to cling to explanations that might once have held some force but are no longer plausible is, in the most literal sense, reactionary.

The very form of the explanation offered by liberals for modern crime—from social conditions direct to behavior, without passing through the human mind—offers those who commit crime an excuse in advance, an excuse which with part of their minds they know to be false but which is nonetheless useful and convenient to them in

dealing with officialdom.

Finally, consider the effect that the mass media's constant rehearsal of injustices has upon the population. People come to believe that, far from being extremely fortunate by the standards of all previously existing populations, we actually live in the worst of times and under the most unjust of dispensations. Every wrongful conviction, every instance of police malfeasance, is so publicized that even professional criminals, even those who have performed appalling deeds, feel on a priori grounds they too must have been unjustly, or at least hypocritically, dealt with.

And the widespread notion that material inequality is in itself a sign of institutionalized injustice also helps foster crime. If property is theft, then theft is a form of just retribution. This leads to the development of that most curious phenomenon, the ethical thief: the thief who prides himself on stealing only from those who in his estimation can stand the loss. Thus I have had many burglars tell me in a glow of self-satisfaction that they would not steal from the old, from children, or the poor, because that would be wrong.

"In fact, you'd steal only from people like me," I say to them. (A house opposite mine has been burgled four times in two years, incidentally.)

They agree; and strangely enough they expect my approbation of their restrained feloniousness. That's how far things have gone. ●

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Clarification

An article ("Downward Mobility") in the Summer 1994 *City Journal* drew the inference from statements made by Professor Mary Soliday of City College that Professor Soliday was "unconcerned" about whether City College students have adequate grammatic and linguistic skills to enable them to make headway in the job market. Professor Soliday tells us that the inference is mistaken; on the contrary, she is concerned. *City Journal* regrets any contrary impression that the article may promote.

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Times Past

Daniel Seligman

In 1942 I had a summer job on the *New York Times*. Half a century later, there are huge gaps in my memory of the experience, but I do have two very vivid and precise recollections. Both of them imply that the institution I was working for had a certain Through-the-Looking-Glass quality. So, indeed, I thought at the time.

It was not easy getting a job on the *Times* in 1942, but I had connections. I never even had to show my *Targum* clippings. The *Targum* was the student newspaper at Rutgers, where I arguably demonstrated a certain rough-hewn talent on the freshman wrestling beat. My doting Aunt Anna, secretary to the head of the art department at Young & Rubicam, was capable of mentioning the wrestling coverage to her boss, but I doubt that he passed these details along to the friend at the *Times* who agreed to hire me.

My job description was "messenger—advertising department." The pay was 37½ cents an hour, definitely not enough on which to raise a family of four. To be sure, I did not exactly have this problem, as I was only 17. My only problem, at least in the early weeks at the *Times*, was getting the proofs of display ads to advertising agencies and their local clients, mostly department stores.

This proved more difficult than foreseen. The deliveries were virtually all in midtown and were supposed to be made on foot, so I did a lot more hot-weather hiking than my tender soles were used to. After a while, my feet blistered bloodily, and our family doctor told me I had to spend some time in bed.



ANDREW BODWIN

This brings me to the first Through-the-Looking-Glass recollection. I called in sick and explained the medical situation to the dispatcher. He said, "Fine, take a couple of days off, and by the way, kid, where do you live?" Two hours later my mother was startled to find at our door a grim-visaged nurse from the *Times'* medical department. She was not there to treat my blisters, only to verify their size and existence—to make sure that a teenage messenger earning the minimum wage wasn't trying to put something over on the *New York Times*.

After a while, the world's greatest newspaper began moving me around to other jobs. This seemed reasonable enough, as people all around the company were on vacation or getting drafted. I worked in the accounting department, and later in classified ads. The drill in classified was that you showed up at 5 AM and sorted mail for four hours. Then, at 9 AM, you might get asked to work another four hours behind the counter, serving clients who came in to pick up responses to their ads. More often than not, management simply told me to get lost at 9 AM. This meant I had earned \$1.50 for the day, which was coincidentally what it cost to spend the next eight hours or so with the Giants at the Polo Grounds. Ten

cents for the subway, \$1.10 for grandstand admission, another dime for a scorecard, the balance for hot dogs.

My second Through-the-Looking-Glass recollection arose out of my posting to the personnel department. Here, incredibly, I found myself serving as No. 2 man in the department. I am not joking: personnel in the dog days consisted of minimum-wage me, a senior person whose name I cannot recall, and a couple of typists. I was a trusted manager, with access to confidential records, and proved it by spending hours looking up the salaries of all the sportswriters.

I also dispatched cold-call job-seekers. One day, the door to the personnel department swung open, and there stood a Rutgers fraternity brother who also happened to have been last year's editor-in-chief at the *Targum*. It turned out that he now worked for a small-town paper in New Jersey but was eager to move up a few rungs. So he had come to the personnel department, and there found himself incredulously confronting pimply me, the wrestling reporter who kept mixing up hammerlocks and half nelsons. I may not have the dialogue down perfectly. But I guarantee I was wearing my standard embarrassed smirk as I rose to greet the poor guy, also that my message was some very close approximation of, "I'm sorry, Lenny, but we're just not hiring."

He turned and left without a word, but one sensed that he too felt something crazy was happening.

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